



Royal Commission
into the Management of Police Informants

Counsel Assisting Submissions with respect to Terms of Reference 1 and 2

Volume 2 Narrative

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Pseudonyms have been applied throughout this volume:

- where court orders require it
- where the Commission has determined it is appropriate based upon requests for reputational, privacy or safety reasons
- where the Commission has determined it appropriate in relation to case studies it was unable to serve on individuals.

CHAPTER 1 – 1993 TO 1999 – GOBBO’S INVOLVEMENT WITH VICTORIA POLICE

Background

1. Ms Nicola Gobbo undertook a Bachelor of Arts and Bachelor of Law degree at the University of Melbourne between 1991 and 1995.¹ During her time as a university student, she had interactions with members of Victoria Police which are relevant to the Commission’s terms of reference.

1993 – Operation Yak

2. The following paragraphs address interactions between Ms Gobbo and Victoria Police in 1993. Those interactions occurred in relation to activities at a property she co-owned with Brian Wilson at 250 Rathdowne Street, Carlton.
3. In a 4 February 1997 affidavit to the Board of Examiners, in the process of applying for admission to practise as a barrister and solicitor, Ms Gobbo deposed to aspects of those interactions. Ms Gobbo’s evidence before the Commission concerning that affidavit included the following exchange:

MR WINNEKE: Now, do you accept that the impression that you created in the affidavit which you swore in 2007 was - sorry, 1997, was inconsistent with the, clearly inconsistent with the actual facts of the matter?

MS GOBBO: Well it wasn't - the way you put it wasn't the full story.

MR WINNEKE: And it was misleading?

MS GOBBO: Because of, because of material omitted, yes.²

4. Ms Gobbo’s evidence to the Commission was that she met Mr Wilson at an INXS concert held at Melbourne University.³ That concert occurred on 20 April 1993.
5. At that time, Mr Wilson was working as a security officer. Approximately two months later, on 21 July 1993, Ms Gobbo and Mr Wilson became the registered proprietors of a property at 250 Rathdowne Street, Carlton.⁴
6. In her 4 February 1997 affidavit to the Board of Examiners Ms Gobbo did not mention co-ownership of the house, rather she said she was friends with

¹ Exhibit RC0013 Academic Transcript of Ms Nicola Gobbo, 28 February 1996, LAB.0001.0001.0016.

² Transcript of Ms Nicola Gobbo, 4 February 2020, 13004, TRN.2020.02.04.01. Whilst the transcript records the word “admitted”, the audio confirms the word used was “omitted”.

³ Exhibit RC0787 Transcript of conversation between Ms Nicola Gobbo and the Commission 20.03.2019, 20 March 2019, 245 Ms Gobbo and RCMPI 20.03.2019.

⁴ Exhibit RC1827 Land Use Victoria Historical search statement for 250 Rathdowne Street, Carlton, 23 April 2019, RCMPI.0059.0001.0001.

Mr Wilson and 'he offered to move in as a housemate in order to assist me paying the mortgage'.⁵

7. **On the evidence, it is open to the Commissioner to find that Ms Gobbo deliberately misled the Board of Examiners in her 4 February 1997 affidavit. That is so, because in her affidavit, Ms Gobbo sought to convey to the Board that Mr Wilson was a tenant, when he was in fact a co-owner. In so-doing, Ms Gobbo was seeking to minimise her relationship with Mr Wilson.**

8. On 19 August 1993, Victoria Police received information through Crime Stoppers that cannabis and amphetamines were being trafficked from 250 Rathdowne Street. Ms Gobbo was not the person who contacted Crime Stoppers.⁶ 'Operation Yak' was established to investigate the information. A local unit of Victoria Police, District Support Group A, commenced mobile surveillance on Ms Gobbo and Mr Wilson.
9. At about 5:25pm on 3 September 1993, members of District Support Group A executed a search warrant at the premises. Among the officers who were present during the execution of the warrant were Sergeant Trevor Ashton, Sergeant Michael Holding and Constable Peter Trichias.⁷ Ms Gobbo was not present when police initially entered the premises. Ms Gobbo arrived home approximately two hours after Victoria Police gained entry to the premises.⁸ During a search of Ms Gobbo's bedroom, a small amount of amphetamine and cannabis was found in a cigarette packet in a chest of drawers.⁹
10. Later, in her 4 February 1997 affidavit to the Board of Examiners, Ms Gobbo swore as follows:

*On September 3 1993 the District Support Group (Victoria Police) executed a search warrant at my home. They found quantities of marijuana and amphetamines on the premises. I was embarrassed and shocked when this occurred as I did not know what was taking place at my house. Five days earlier I had formed some suspicions of Wilson and I reported him to the Police.*¹⁰

⁵ Exhibit RC0015 Affidavit to the Board of Examiners, 4 February 1997, 2 LAB.0001.0001.0002 @.0002

⁶ Transcript of Mr Michael Holding, 29 March 2019, 536, TRN.2019.03.29.01; Exhibit RC0787, Transcript of conversation between Ms Nicola Gobbo and the Commission 20.03.2019, 20 March 2019, 245, Ms Gobbo and RCMP 20.03.2019.

⁷ Exhibit RC0029 Inspector Trevor Ashton day book, 3 September 1993, 4 VPL.0002.0002.0004 @.0007; Exhibit RC0028 Statement of Inspector Trevor Ashton, 21 March 2019, 2, [9] VPL.0014.0002.0001 @.0002; Transcript of Detective Senior Sergeant Peter Trichias, 29 March 2019, 556, TRN.2019.03.29.01; Transcript of Mr Michael Holding, 29 March 2019, 537-8, TRN.2019.03.29.01; Transcript of Inspector Trevor Ashton, 29 March 2019, 573, TRN.2019.03.29.01.

⁸ Exhibit RC0029 Inspector Trevor Ashton day book, 3 September 1993, 4 VPL.0002.0002.0004 @.0007.

⁹ Transcript of Inspector Trevor Ashton, 29 March 2019, 576, TRN.2019.03.29.01.

¹⁰ Exhibit RC0015 Affidavit to the Board of Examiners, 4 February 1997, 2, [10], LAB.0001.0001.0002 @.0002.

11. In her evidence before the Commission, Ms Gobbo accepted that during the search the police had found amphetamine and cannabis in a cigarette packet in her bedroom.¹¹

12. **On the evidence, it is open to the Commissioner to find that Ms Gobbo deliberately misled the Board of Examiners in her 4 February 1997 affidavit. That is so, because in her affidavit, Ms Gobbo sought to convey through her 'shock' that, prior to the execution of the warrant, she was unaware of there being cannabis and amphetamine in the house. In fact, she herself was in possession of a small quantity of cannabis and amphetamine.**

13. In her evidence before the Commission, Ms Gobbo said that in the days leading up to the search she had gained '...a much better idea of the level of drug trafficking with which he was involved and, yes, being shocked about it, and being frightened'.¹²

14. At some point during the search, Ms Gobbo informed Mr Trevor Ashton that drugs were hidden behind a vent in the laundry.¹³ A subsequent search of the vent revealed two bags of amphetamines.¹⁴ A total of three pounds of amphetamine and three quarters of a pound of cannabis were seized.¹⁵

15. **On the evidence, it is open to the Commissioner to find that Ms Gobbo deliberately misled the Board of Examiners in her 4 February 1997 affidavit. That is so, because in her affidavit, Ms Gobbo sought to convey through her 'shock' that, prior to the execution of the warrant, she was unaware of there being cannabis and amphetamine in the house. In fact, she directed the police to the hiding place of a large quantity of drugs, demonstrating her prior knowledge of their whereabouts.**

16. Following the search, Ms Gobbo was interviewed by police. Ms Gobbo told the Board of Examiners that 'when questioned by the police I admitted to having experimented with marijuana on two occasions in 1991 or 1992 at university parties and that I had not tried it since'. Ms Gobbo told the Commission:

...and it was my own, my own probably honesty or stupidity in participating in a recorded interview where I got asked if I tried – I knew what cannabis was and, "Yes, I've tried it". "Have you ever tried

¹¹ Transcript of Ms Nicola Gobbo, 4 February 2020, 13000, TRN.2020.02.04.01.

¹² Transcript of Ms Nicola Gobbo, 4 February 2020, 13003, TRN.2020.02.04.01.

¹³ Transcript of Inspector Trevor Ashton, 29 March 2019, 578, TRN.2019.03.29.01.

¹⁴ Transcript of Inspector Trevor Ashton, 29 March 2019, 578, TRN.2019.03.29.01.

¹⁵ Exhibit RC0021 Letter of Commendation to Mr Michael Holding, 8 December 1993, 1, VPL.0005.0007.0129 @.0129.

amphetamine? Yes, I have." So there was possessing charges for those drugs.¹⁶

17. **On the evidence, it is open to the Commissioner to find that Ms Gobbo deliberately misled the Board of Examiners in her 4 February 1997 affidavit. That is so, because in her affidavit, Ms Gobbo sought to convey that she had used cannabis recreationally twice and, by omission, sought to convey that she had not used amphetamines. However, Ms Gobbo admitted to the Commission that by the time she came to be interviewed by the police, she had used both cannabis and amphetamines.**

18. As a result of the investigation, Ms Gobbo was charged with use and possession of cannabis and amphetamine.¹⁷ Later, in her 4 February 1997 affidavit to the Board of Examiners, Ms Gobbo swore as follows:

I was charged with two counts of possession of drugs and one count of use. As an occupier and owner of the premises where drugs were found, I was told by the Police that Section 5 of the Drugs Poisons Controlled Substances Act 1981 (Vic) applied; due to the quantities found I was deemed liable on the basis of owning the house.¹⁸

19. **On the evidence, it is open to the Commissioner to find that Ms Gobbo deliberately misled the Board of Examiners in her 4 February 1997 affidavit. That is so, because in her affidavit, Ms Gobbo sought to convey to the Board that she was deemed to be guilty of an offence due to the presence of a particular quantity of cannabis and amphetamine in the house, rather than, as was the fact, she was herself in possession of cannabis and amphetamine and pleaded guilty to an offence in relation to the possession and use of those substances.**

20. Mr Wilson was charged with trafficking, use and possession of a drug of dependence. Another co-offender, Mr Victor Vellios, was charged with drug-related offences.¹⁹ Ms Gobbo admitted that she had knowledge of the drugs being kept at the premises, but denied being involved in the trafficking operation.²⁰ Mr Holding recalled that the evidence against her in relation to the trafficking operation was not strong.²¹ He also recalled that his

¹⁶ Exhibit RC0787 Transcript of conversation between Ms Nicola Gobbo and the Commission 20.03.2019, 20 March 2019, 248-9, Ms Gobbo and RCMP 20.03.2019.

¹⁷ Exhibit RC0022 Print out of charges, 7 September 1993, VPL.0002.0002.0102.

¹⁸ Exhibit RC0015 Affidavit to the Board of Examiners, 4 February 1997, 2 [11], LAB.0001.0001.0002 @.0002.

¹⁹ Exhibit RC0023 Statement of Detective Senior Sergeant Peter Trichias, 27 March 2019, 5 [18], VPL.0014.0007.0001 @.0055; Exhibit RC0021 Letter of Commendation to Mr Michael Holding, 8 December 1993, 1, VPL.0005.0007.0129 @.0129.

²⁰ Exhibit RC0020 Statement of Mr Michael Holding, 27 March 2019, 2 [19], VPL.0014.0009.0001 @.0002.

²¹ Exhibit RC0020 Statement of Mr Michael Holding, 27 March 2019, 3 [21], VPL.0014.0009.0001 @.0003; Transcript of Mr Michael Holding, 29 March 2019, 545, TRN.2019.03.29.01.

impression of her was that she was 'very confident and opinionated. I felt that she thought the process was like a game.'²²

21. In late September 1993, Ms Gobbo spoke with Mr Holding in relation to providing a statement regarding Mr Wilson. She did not ultimately provide a statement to police.²³
22. On 29 November 1993, Ms Gobbo pleaded guilty to the possession and use of amphetamine and cannabis and received a twelve-month good behaviour bond without the recording of a conviction. Mr Wilson received a sentence of eight months' imprisonment suspended for 24 months. Mr Vellios received a fine of \$200 without the recording of a conviction.

July 1995 – The First Registration

23. Throughout 1994 and 1995, members of Victoria Police remained in contact with Ms Gobbo. Mr Trevor Ashton met Ms Gobbo a number of times at the Melbourne Cricket Ground, where she held a part time job with a catering company.²⁴ A member of his team, Constable Tim Argall, was also present for at least one of these meetings.²⁵
24. Senior Constable Rodney Arthur also recalled meeting with Mr Trevor Ashton and Ms Gobbo in early 1995 on around three occasions on the street near the previous location of the Melbourne Magistrates' Court.²⁶ These meetings were organised by Mr Trevor Ashton. Mr Arthur did not recall Ms Gobbo providing any information valuable to an investigation during these meetings.²⁷
25. On 3 April 1995, a further search warrant was executed at the Rathdowne St premises. Small quantities of drugs were seized. As a result, Mr Wilson was charged with possession and use of cannabis. He was ultimately convicted of these offences and fined \$500. Ms Gobbo was not present at the time, nor was she charged with any offences arising out of the execution of this search warrant.

²² Exhibit RC0020 Statement of Mr Michael Holding, 27 March 2019, 3 [23], VPL.0014.0009.0001 @.0003; Transcript of Mr Michael Holding, 29 March 2019, 541-42 TRN.2019.03.29.01.

²³ Exhibit RC0020 Statement of Mr Michael Holding, 27 March 2019, 3 [20], VPL.0014.0009.0001 @.0003; Transcript of Mr Michael Holding, 29 March 2019, 541, TRN.2019.03.29.01.

²⁴ Exhibit RC0028 Statement of Inspector Trevor Ashton, 21 March 2019, 3 [19] VPL.0014.0002.0001 @.0003; Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 313, TRN.2019.03.27.01.

²⁵ Exhibit RC0054 Statement of Detective Senior Sergeant Tim Argall, 27 March 2019, 3 [14], COM.0037.0001.0001 @.0003; Transcript of Detective Senior Sergeant Tim Argall, 1 April 2019, 666–67, TRN.2019.04.01.01.

²⁶ Exhibit RC0052, Statement of Detective Senior Sergeant Rodney Arthur, 26 March 2019, 1 [5], 1 [7], 2 [9], VPL.0014.0006.0001 @.0001, .0002; Transcript of Inspector Trevor Ashton, 29 March 2019, 584, 594-5, TRN.2019.03.29.01; Transcript of Detective Senior Sergeant Rodney Arthur, 1 April 2019, 656, TRN.2019.01.01.

²⁷ Exhibit RC0052, Statement of Detective Senior Sergeant Rodney Arthur, 26 March 2019, 2 [11], VPL.0014.0006.0001 @.0002; Transcript of Detective Senior Sergeant Rodney Arthur, 1 April 2019, 657, TRN.2019.01.01 @.0002; Transcript of Detective Senior Sergeant Rodney Arthur, 1 April 2019, 657.

26. In July 1995, Ms Gobbo was registered as a human source by Mr Trevor Ashton and Mr Argall.²⁸ They included the following details in the registration form:

*Informer is a law student at Melbourne Uni currently living with a known criminal. She was charged with possess amphet last year as a result of the criminal that was living with her. Is quite reliable and seeking a career as a solicitor.*²⁹

27. The reason specified in that document for Ms Gobbo being registered as a human source was that she 'genuinely wanted to assist police'. During evidence, Mr Trevor Ashton considered that it was likely that she was registered as an informer due to the 'substantial' nature of the information that she was providing.³⁰
28. At that time, the registration of human sources was undertaken by providing their identity to a more senior officer in an envelope. The senior officer would then review the information and seal that envelope. A number would then be allocated to the human source.³¹
29. On 12 July 1995, Mr Trevor Ashton and Mr Argall took Ms Gobbo to the St Kilda Road Police Station to meet members of the Special Response Squad.³² The purpose of the meeting was for Ms Gobbo to provide information to police about Mr Wilson's involvement in drug trafficking, as well as firearm possession.³³
30. Throughout the latter part of 1995, Ms Gobbo continued to provide information to police regarding Mr Wilson.³⁴ No documents in the nature of Informer Contact Reports (ICRs) or Information Reports (IRs) recording these contacts have been located.³⁵

1996 – Operation Scorn

31. By February 1996, Victoria Police had commenced another operation in relation to Mr Wilson, known as 'Operation Scorn'.
32. The 'Operation Progress Report' concerning Operation Scorn records that on 21 February 1996, there was a plan to use Ms Gobbo to introduce an undercover agent to Mr Wilson.³⁶ It does not appear that this introduction took place.

²⁸ Exhibit RC0030 Registration of Ms Nicola Gobbo as a Human Source, undated, VPL.0005.0007.0088.

²⁹ Exhibit RC0030 Registration of Ms Nicola Gobbo as a Human Source, undated, VPL.0005.0007.0088.

³⁰ Exhibit RC0028 Statement of Inspector Trevor Ashton, 21 March 2019, 3 [23] VPL.0014.0002.0001 @.0003; Transcript of Inspector Trevor Ashton, 29 March 2019, 585, TRN.2019.03.29.01.

³¹ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 316, TRN.2019.03.27.01.

³² Exhibit RC0028 Statement of Inspector Trevor Ashton, 21 March 2019, 3 [25] VPL.0014.0002.0001 @.0003; Exhibit RC0025 Statement of Mr John Gibson, 27 March 2019, 2 [9], VPL.0014.0008.0001 @.0002.

³³ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 317, TRN.2019.03.27.01.

³⁴ Exhibit RC0028 Statement of Inspector Trevor Ashton, 21 March 2019, 3 [24]-[27], 4 [32], VPL.0014.0002.0001 @.0003, .0004.

³⁵ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 317, TRN.2019.03.27.01.

³⁶ Exhibit RC0070 Operation Scorn Progress Report, 22 February 1996, VPL.0005.0007.0122.

33. In March 1996, Operation Scorn was cancelled. Detective Jack Blayney noted on the 'Operation Progress Report' the reason for the cancellation was that Ms Gobbo was 'making arrangements and not liaising – loose cannon'. He also noted that Ms Gobbo was the 'informer re ALP/LIB document leaked prior to election'; a reference to a recent public dispute between political parties concerning the source of a forged letter, that Ms Gobbo had involved herself in.³⁷
34. In his statement, Assistant Commissioner Neil Paterson, APM, Intelligence and Covert Support Command, notes that it is unlikely that Mr Blayney's observations would have been known by other members of Victoria Police who had later contact with Ms Gobbo, as the force did not maintain an electronic database of historical information relevant to human sources.³⁸

1996 to 1997 – Articles of clerkship and admission to practice

35. At the end of 1995 Ms Gobbo completed her Bachelor of Arts and Bachelor of Laws, receiving Third Class Honours in Law. She achieved First Class Honours in Legal Ethics and Professional Conduct.³⁹
36. On 26 February 1996, Ms Gobbo commenced Articles of Clerkship with Molomby & Molomby Solicitors. Her principal was Mr George Stogdale.⁴⁰
37. On 23 January 1997, Ms Gobbo notified the Board of Examiners of her intention to apply to be admitted as a solicitor.⁴¹ Ms Gobbo's 4 February 1997 affidavit was sworn in support of her application for admission to practice. In her affidavit, Ms Gobbo addressed her criminal offending in 1993.⁴²
38. On 6 February 1997, Ms Gobbo advised the Law Institute of Victoria (LIV) that she was '...leaving Molomby & Molomby on 7 February and commencing work at Solicitor 1's office...'.⁴³
39. On 7 February 1997, Ms Gobbo left Molomby & Molomby and commenced as an employee with Law Firm 1 Barristers & Solicitors, a law firm specialising in criminal defence work.⁴⁴ In his 25 February 1997 'Affidavit of Service Under Articles', Mr Stogdale advised the Board of Examiners that Ms Gobbo was on leave but still articulated to him from Monday 10 February 1997 until Tuesday 25 February 1997.⁴⁵
40. On 17 February 1997, Ms Gobbo appeared before the Board of Examiners and gave evidence regarding her criminal history. On that evening, and

³⁷ Exhibit RC0070 Operation Scorn Progress Report, 22 February 1996, VPL.0005.0007.0122.

³⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, 10 [3.28] VPL.0014.0005.0001 @.0010

³⁹ Exhibit RC0013, Academic Transcript of Ms Nicola Gobbo, 28 February 1996, LAB.0001.0001.0016.

⁴⁰ Exhibit RC0015 Affidavit to the Board of Examiners, 4 February 1997, LAB.0001.0001.0002.

⁴¹ Exhibit RC1830 Victorian Legal Admissions Board, 'Notice of Intention to Apply for Admission', produced by the Victorian Legal Admissions Board in response to a Commission Notice to Produce, 23 January 1997, LAB.0001.0001.0015.

⁴² Exhibit RC0015 Affidavit to the Board of Examiners, 4 February 1997, LAB.0001.0001.0002.

⁴³ Exhibit RC0158 Letter from the Law Institute of Victoria to Ms Nicola Gobbo, 6 February 1997, 36 LSB.0001.0001.0001 @ LSB.0001.0036.

⁴⁴ Exhibit RC0158 Letter from the Law Institute of Victoria to Ms Nicola Gobbo, 6 February 1997, 38, LSB.0001.0001.0001 @ LSB.0001.0036.

⁴⁵ Exhibit RC0016 Affidavit of Service Under Articles, 25 February 1997 LAB.0001.0001.0006.

following her evidence and questioning by members, the Board of Examiners informed Ms Gobbo that it would grant her a practising certificate.⁴⁶

41. On 25 February 1997, Ms Gobbo completed her period of articles. That day, Mr Stogdale swore an 'Affidavit of Service Under Articles', attesting to Ms Gobbo having served her period of articles.⁴⁷
42. On 28 February 1997, Ms Gobbo stated to the LIV that she had 'recently completed' Articles and would be admitted to practice on 7 April 1997. This followed a query from the LIV as to it holding no record of her employment or of a practicing certificate.⁴⁸
43. On 7 April 1997, Ms Gobbo was admitted to practice as a barrister and solicitor in Victoria.⁴⁹

██████████ 1997 – Operation ██████████

44. In ██████████ 1997, Law Firm 1 Barristers & Solicitors was acting for ██████████ ██████████ charged with drug offences as a result of an investigation by the Drug Squad known as Operation ██████████ ██████████ ██████████.
45. ██████████ Kruger was the informant in relation to several of the accused. Ms Gobbo was working on the matters ██████████ ██████████ was also represented by Law Firm 1 Barristers & Solicitors.⁵²
46. Between ██████████ 1997 and ██████████ 1998, Mr Kruger had a number of meetings and telephone conversations with Ms Gobbo regarding the Operation ██████████ investigation.⁵³ At some point, Ms Gobbo made allegations to Mr Kruger that the principal of Law Firm 1 Barristers & Solicitors, Solicitor 1, was engaging in fraudulent activity.⁵⁴
47. On ██████████ 1998, Mr Kruger and Detective Senior Constable Christopher Lim, also a member of the Drug Squad, met Ms Gobbo in relation to Solicitor 1.⁵⁵ Mr Kruger submitted an IR following that meeting.⁵⁶ The IR records that Ms Gobbo told investigators that they should investigate:

⁴⁶ Exhibit RC1812 Victorian Legal Admissions Board, 'Minutes of Meeting of the Board of Examiners', 17 February 1997, produced by the Victorian Legal Admissions Board in response to a Commission Notice to Produce, 17 February 1997, LAB.0001.0001.0012 @.0001.

⁴⁷ Exhibit RC0016 Affidavit of Service Under Articles, 25 February 1997, LAB.0001.0001.0006.

⁴⁸ Exhibit RC0159 Letter from, Law Institute of Victoria to Ms Nicola Gobbo, 26 February 1997, 37 LSB.0001.0001.0001 @.0035; Exhibit RC0160 Letter from Mr Nicola Gobbo to Professional Standards, Law Institute of Victoria, 28 February 1997, 36, LSB.0001.0001.0001 @.0034.

⁴⁹ Exhibit RC0019 Certificate of Admission of Ms Nicola Gobbo, 7 April 1997, LAB.0001.0001.0001 @.0001.

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- 47.1. the properties which were used as surety for [REDACTED]
- 47.2. Ms Gobbo's assertion that she believed that Solicitor 1 was funding [REDACTED] defence in Operation [REDACTED] charges because [REDACTED] is important to him'
- 47.3. companies in which Solicitor 1 was a shareholder
- 47.4. properties in Victoria and interstate which Solicitor 1 was involved in
- 47.5. Law Firm 1 Barristers & Solicitors' trust account.⁵⁷
- 48. The IR records that Ms Gobbo told the investigators that she believed that Solicitor 1 assisted in laundering money by purchasing properties for cash and then refinancing to 'make the properties legitimate'.⁵⁸
- 49. Mr Lim's evidence was that during the meeting Ms Gobbo told the investigators that she was holding a pound of amphetamine for [REDACTED].⁵⁹
- 50. Mr Lim's evidence was that following the meeting, he considered that it was inappropriate for Ms Gobbo to be used as a human source because:
 - 50.1. she was too 'overt' in her desire to provide information to police
 - 50.2. she was a solicitor
 - 50.3. she had inappropriate relationships with police officers.⁶⁰
- 51. Mr Lim's evidence was that he informed his superior, Senior Sergeant Mark Bowden, that he believed it would be wrong for police to use information provided by Ms Gobbo in relation to her clients.⁶¹
- 52. On [REDACTED] 1998, the committal hearing was held for [REDACTED] [REDACTED] at the Melbourne Magistrates' Court. [REDACTED] [REDACTED], Person 2, who had been represented by Ms Gobbo, approached police and offered assistance. On 13 October 1998, Person 2 [REDACTED] [REDACTED].⁶²
- 53. Following Person 2's [REDACTED], a number of meetings between Ms Gobbo and Mr Strawhorn occurred in relation to [REDACTED].⁶³ On 16 December 1998, shortly after signing the Victorian Bar Roll, Ms Gobbo and Mr Strawhorn [REDACTED] [REDACTED].⁶⁴

[REDACTED]

54. [REDACTED]

1998 – AFP Operation Virus

55. Operation Virus was established in 1996 to investigate alleged tax evasion by Mr Horty Mokbel. Two now retired Australia Federal Police (AFP) police officers, Federal Agents 1 and 2, were part of the investigation team and had relevant dealings with Ms Gobbo.⁶⁶
56. On 3 March 1998, Mr Horty Mokbel was arrested and charged with defrauding the Commonwealth. Ms Gobbo was an employee of Law Firm 1 Barristers & Solicitors, which represented Mr Horty Mokbel from that time.⁶⁷
57. Mr Horty Mokbel was granted bail on the undertaking of a surety which included a property owned by Ms Marie Rose Kabalan, which was leased to Mr Antonios (Tony) Mokbel. Mr Tony Mokbel and Ms Marie-Rose Kabalan provided affidavits deposing to that circumstance which Ms Gobbo witnessed in her capacity as a solicitor. Mr Tony Mokbel and Ms Marie-Rose Kabalan were later charged with perjury for providing false affidavits in support of Mr Horty Mokbel's bail application.⁶⁸
58. On 9 April 1998, Federal Agent 1 took a witness statement from Ms Gobbo in relation to the perjury charges as she had been present at the Melbourne Magistrates' Court when the affidavits were deposed by Mr Tony Mokbel and Ms Marie-Rose Kabalan. The statement set out Ms Gobbo's recollection of the circumstances in which the affidavits were deposed.⁶⁹ Ms Gobbo gave evidence in the trial.
59. On 16 November 1999, Mr Tony Mokbel and Ms Marie-Rose Kabalan were found not guilty of perjury. On 26 May 2000, Mr Horty Mokbel was acquitted of the tax evasion charges.⁷⁰

⁶⁶ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [1]–[2], RCMPPI.0100.0001.0001 @.0001; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9920, TRN.2019.11.27.01.

⁶⁷ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [3]–[4], RCMPPI.0100.0001.0001 @.0001; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9920, TRN.2019.11.27.01.

⁶⁸ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [5], RCMPPI.0100.0001.0001 @.0001

⁶⁹ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [5]–[6], RCMPPI.0100.0001.0001 @.0001; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9920, TRN.2019.11.27.01.

⁷⁰ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [7]–[8], RCMPPI.0100.0001.0001 @.0001; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9920, TRN.2019.11.27.01.

60. On 13 May 1998, not long after the witness statement was taken from Ms Gobbo, Ms Gobbo contacted the AFP Melbourne office and spoke with Federal Agent 2. Ms Gobbo inquired about the AFP 'recruiting details'. Federal Agent 2 directed Ms Gobbo to the AFP's website. Ms Gobbo then spoke with Federal Agent 1 and requested a meeting as she had 'some issues' she wished to discuss.⁷¹
61. Ms Gobbo's evidence to the Commission was that she did not have a specific memory of requesting a meeting with the AFP but she assumes it had something to do with the 'pressure and ongoing kind of threats from Wayne Strawhorn and co.'. Ms Gobbo does not dispute that she may have wanted to provide information to the AFP.⁷²
62. A meeting was arranged for 7:00pm the following day, 14 May 1998. Federal Agent 1 documented the call with Ms Gobbo and obtained the necessary approvals from his superiors to attend the meeting with Federal Agent 2.⁷³
63. On 14 May 1998, Ms Gobbo met with Federal Agents 1 and 2 after 7:00pm at 221 Queen Street, Melbourne. At around 8:00pm the meeting moved to the Celtic Club. The meeting concluded at approximately 12:00am.⁷⁴ Federal Agent 2 documented the meeting with Ms Gobbo. During the meeting Ms Gobbo brought up morality and ethics in relation to police and lawyers. Ms Gobbo alluded to possible information she could provide to the AFP and expressed concerns regarding the protection of her identity in official records. Ms Gobbo mentioned a fear of listening devices being placed in her home. The AFP advised the Commission that Ms Gobbo did not provide any information of substance to the AFP members, the members considered her to be untrustworthy and were of the view that she was seeking to elicit information from the AFP. The members did not contemplate using Ms Gobbo as a human source.⁷⁵
64. On 21 May 1998, Federal Agent 1 telephoned Ms Gobbo regarding her request for another meeting. Later that day Ms Gobbo returned the phone call. Federal Agent 1 indicated that he was not interested in meeting with Ms Gobbo if she intended to compromise the AFP. Ms Gobbo claimed this was not the case and it was agreed she would meet with Federal Agents 1 and 2 during the following week. Federal Agent 1 documented the call with Ms Gobbo and briefed his superiors about this contact.⁷⁶

⁷¹ Exhibit RC0794 Enclosures to letter from Australian Federal Police lawyers to Commission, various dates, AFP.0001.0002.0041

⁷² Transcript of Ms Nicola Gobbo, 4 February 2020, 13010, TRN.2020.02.04.01.

⁷³ Exhibit RC0794 Enclosures to letter from Australian Federal Police lawyers to Commission, various dates, AFP.0001.0002.0041

⁷⁴ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 2 [10], RCMPI.0100.0001.0001 @.0002; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9921, TRN.2019.11.27.01.

⁷⁵ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 2 [10] - [11], RCMPI.0100.0001.0001 @.0002; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9921, TRN.2019.11.27.01.

⁷⁶ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 2 [12], RCMPI.0100.0001.0001 @.0002; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9921, TRN.2019.11.27.01.

65. The next day, on 22 May 1998, Ms Gobbo telephoned Federal Agent 1 and alluded to having confidential information which she wished to divulge because it was creating a moral problem for her. Ms Gobbo sounded tired and emotional and said she was having trouble coping with this issue. Ms Gobbo reiterated that she did not intend to compromise the AFP and reminded Federal Agent 1 that it was she who had approached the AFP and not the other way around. Federal Agent 1 agreed that he and Federal Agent 2 would meet with Ms Gobbo next week. Federal Agent 1 documented the call with Ms Gobbo and briefed his supervisors on this contact.⁷⁷
66. The AFP has advised the Commission that neither Federal Agent 1 nor Federal Agent 2 recall having any further meeting with Ms Gobbo.⁷⁸

1998 – AFP Operation Flange

67. Operation Flange commenced in September 1995 to investigate alleged money laundering activities by Nachum Goldberg and the Goldberg family. Two AFP officers, Federal Agents 3 and 4, were part of the investigation team. As a result of Operation Flange, on 19 June 1997 Ms Rita Goldberg was arrested and charged with conspiracy to defraud the Commonwealth. Other members of the Goldberg family were also charged. Ms Goldberg's committal hearing commenced on 11 May 1998 and evidence concluded on 4 August 1998. Federal Agent 3 gave evidence as a witness at the committal proceeding.⁷⁹
68. On 30 November 1998, Ms Goldberg was committed to stand trial. The AFP understands that Ms Gobbo was aware of the proceedings against the Goldberg family because she worked as a solicitor for the law firm which represented some of the Goldberg members during the committal stage. A different firm acted for Ms Goldberg during this period. The AFP understands that Ms Gobbo appeared as counsel for Rita Goldberg in an arraignment hearing on 30 March 1999 which was adjourned. The AFP has checked with the Commonwealth Director of Public Prosecutions (CDPP) which has confirmed that the CDPP's review of its file for Rita Goldberg shows no other references to Ms Gobbo, other than recording her appearance as counsel on this date.⁸⁰
69. On 10 March 2000, Ms Goldberg pleaded guilty to the charge and was eventually sentenced on 21 June 2000 to an effective term of 15 months'

⁷⁷ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 2 [13], RCMPI.0100.0001.0001 @.0002; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9921-2, TRN.2019.11.27.01.

⁷⁸ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 2 [15], RCMPI.0100.0001.0001 @.0002; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922, TRN.2019.11.27.01.

⁷⁹ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 3 [23]-[24], RCMPI.0100.0001.0001 @.0003; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922, TRN.2019.11.27.01.

⁸⁰ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 3 [25]-[27], RCMPI.0100.0001.0001 @.0003; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922, TRN.2019.11.27.01.

imprisonment which was wholly suspended pending her good behaviour for a period of five years and a recognisance of \$1,000.⁸¹

70. On 30 June 1998, during the period of Ms Goldberg's committal hearing, Ms Gobbo met with Federal Agents 3 and 4 in South Melbourne until approximately 10:00pm. Federal Agent 3 documented the meeting. Federal Agent 3 has advised that the meeting was arranged following a phone call he received from Ms Gobbo during which she indicated she had information of interest to the AFP. At the meeting Ms Gobbo offered information relating to alleged fraud and/or money laundering. Federal Agent 3 recorded the meeting with Ms Gobbo in his official diary as a meeting with 'informant/contact'. Federal Agent 3 has confirmed that he used the phrase 'informant contact' in a generic sense which was consistent with common practice at that time.⁸²
71. Ms Gobbo told the agents that she had information of interest to the AFP. Her diary records the following:⁸³

Meeting 6:50pm – 10:20pm
AFP: Federal Agent 3
Federal Agent 4

Matters discussed:
1. Solicitor 1 – money laundering
2. APEC
3. Inv. Accts
4. ATO
5. XDH

Names: Higgs
Mokbel
Reid
Person 2
Kruger
Strawhorn

- *Arse covering (me)*
- *Co-op sought*
- *Will call me tomorrow*

72. Ms Gobbo gave evidence to the Commission that she did not dispute the conversation took place however she did not recall it.⁸⁴ She told the Commission that at or around this time she wanted to provide information to the AFP and other federal agencies about allegations associated with fraud against Victoria Legal Aid and money laundering involving Solicitor 1.⁸⁵ Ms

⁸¹ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 3 [28], RCMPI.0100.0001.0001 @.0003; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922, TRN.2019.11.27.01.

⁸² Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 3 [29], RCMPI.0100.0001.0001 @.0003; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922-23, TRN.2019.11.27.01; Exhibit RC1555 Federal Agent 3 diary, 30 June 1998, 2, RCMPI.0174.0001.0001 @.0002.

⁸⁴ Transcript of Ms Nicola Gobbo, 4 February 2020, 1311-2, TRN.2020.02.04.01.

⁸⁵ Transcript of Ms Nicola Gobbo, 4 February 2020, 13012, TRN.2020.02.04.01.

Gobbo did not deny that she likely contacted the federal agents to indicate that she had information to provide them.⁸⁶

73. At the time Ms Gobbo gave evidence to the Commission on 4 February 2020 the AFP had advised the Commission that the 30 June 1998 meeting was the only occasion that Federal Agents 3 and 4 had met with Ms Gobbo. The AFP provided the Commission with the corresponding entry in Federal Agent 3's diary.
74. The AFP also advised the Commission that the AFP had not identified any further records in relation to this meeting or any other meetings between Ms Gobbo and Federal Agents 3 and 4. The AFP confirmed to the Commission that Federal Agent 3 does not recall creating any records in relation to the information offered to him by Ms Gobbo, and to his knowledge no investigations or prosecutions were commenced, nor arrests made, as a result of the information provided at this meeting.⁸⁷

75. Ms Gobbo's diary records a further meeting with Federal Agents 3 and 4 at 'East Melb Hotel' between 2:00pm and 4:00pm on 7 July 1998 as follows:⁸⁸

AFP Meeting #2

Federal Agent 3/Federal Agent 4

East Melbourne Hotel 2pm-4pm

General discussion

They want specific names

Possible introduction of 'client' – fraud angle

Me: scared/assurance given

They arrived separately

- Will call re: meeting to provide specific lists/names

76. Ms Gobbo's evidence was that this was a reference to names of persons represented by Law Firm 1 Barristers & Solicitors or that she had met in the course of her employment.⁸⁹
77. The AFP informed the Commission that following Ms Gobbo's evidence on 4 February 2020 Federal Agent 3 confirmed that he could only recall one meeting with Ms Gobbo and had no recollection of the second meeting on 7 July 1998. Federal Agent 4 could only recall one meeting with Ms Gobbo. However on 9 April 2020, the AFP provided the Commission with an extract of Federal Agent 3's diary which may record his meeting with Ms Gobbo on 7 July 1998.⁹⁰ Federal Agent 3's diary records on 7 July 1998 'Meet contact in East Melbourne area with [Federal Agent 4]'.

⁸⁶ Transcript of Ms Nicola Gobbo, 4 February 2020, 13014, TRN.2020.02.04.01.

⁸⁷ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 3 [29], RCMP.0100.0001.0001 @.0003; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922-23, TRN.2019.11.27.01.

⁸⁸ Exhibit RC0273 Ms Nicola Gobbo diary, 7 July 1998, 92, MIN.0005.0003.0001 @.0092.

⁸⁹ Transcript of Ms Nicola Gobbo, 4 February 2020, 13014-5, TRN.2020.02.04.01.

⁹⁰ Exhibit RC1713 Letter from Clayton Utz to the Commission, 9 April 2020, RCMP.0184.0001.0001.

78. On 13 July 1998, Federal Agent 3 commenced a secondment to the National Crime Authority (NCA).⁹¹
79. On Friday 24 July 1998, Ms Gobbo ceased employment with Law Firm 1 Barristers & Solicitors.⁹²
80. According to Ms Gobbo's evidence, on 8 September 1998, Ms Gobbo again met with Federal Agents 3 and 4. Ms Gobbo's diary records as follows:⁹³

Federal Agent 3, AFP

Coffee - pick up Lonsdale St Melb. 1pm DSI – To Papershop Deli Sth Melb.

Discussion re progress of investigation. They need more and specific instance/detail to do more.

'They' will get back to me to go through material in detail.

Dropped back Lt Collins street 2pm.

81. Ms Gobbo's evidence was that she had no independent recollection of this meeting but that it related to Solicitor 1.⁹⁴
82. In September 1998, Ms Gobbo commenced the Victorian Bar Readers' Course.⁹⁵
83. On 29 and 30 September 1998, Ms Gobbo had further meetings with Federal Agent 3. Ms Gobbo's notes from the meeting record that he 'wants to know everything he can now. He'll work out what's relevant or not. Lengthy discussion re material provided previously. [Financial Analyst] couldn't make sense of the account records'. Ms Gobbo's evidence was that these notes reflect that she had previously provided account records to the federal agents on a floppy disk.⁹⁶
84. On 16 October 1998, Ms Gobbo had a further meeting with Federal Agent 3. Ms Gobbo's evidence was that this meeting related to allegations of money laundering involving Solicitor 1.⁹⁷
85. On 21 October 1998 and 9 November 1998, Ms Gobbo had further meetings with Federal Agent 3 about the allegations of money laundering involving Solicitor 1. Ms Gobbo's notes of the 9 November 1998 meeting record 'Frustrated. Know more but will not, cannot tell him more because of LPP [legal professional privilege]'.⁹⁸

⁹¹ Exhibit RC1713 Letter from Clayton Utz to the Commission, 9 April 2020, RCMP1.0184.0001.0001.

⁹² Exhibit RC0167 Letter from Mr Ron Pata to Ms Nicola Gobbo, 27 July 1998, 22, LSB.0001.0001.0001 @.0020.

⁹³ Exhibit RC0273 Ms Nicola Gobbo diary, 8 September 1998, 97, MIN.0005.0003.0001 @.0097.

⁹⁴ Transcript of Ms Nicola Gobbo, 4 February 2020, 13017, TRN.2020.02.04.01.

⁹⁵ Exhibit RC0183 Victorian Bar profile of Ms Nicola Gobbo, 24 August 2006, 116, LSB.0001.0001.0001 @.0043.

⁹⁶ Transcript of Ms Nicola Gobbo, 4 February 2020, 13018, TRN.2020.02.04.01; Exhibit RC0273 Ms Nicola Gobbo diary, 29 September 1998, 98, MIN.0005.0003.0001 @.0098.

⁹⁷ Exhibit RC0273 Ms Nicola Gobbo diary, 16 October 1998, 99, MIN.0005.0003.0001 @.0099;

Transcript of Ms Nicola Gobbo, 4 February 2020, 13018, TRN.2020.02.04.01.

⁹⁸ Exhibit RC0273 Ms Nicola Gobbo diary, 16 October 1998, 100, MIN.0005.0003.0001 @.0100;

Transcript of Ms Nicola Gobbo, 4 February 2020, 13019, TRN.2020.02.04.01.

86. On 9 April 2020, the AFP's legal representatives sent a letter to the Commission in respect of Ms Gobbo's evidence regarding these meetings she had with Federal Agents 3 and 4. Specifically, and despite previously advising the Commission that it had undertaken searches, the AFP advised that it was not aware of the additional meetings that Ms Gobbo had with Federal Agents 3 and 4 during July and November 1998 until she gave evidence to the Commission on 4 February 2020.⁹⁹
87. On 27 May 2020, the AFP's legal representatives sent a further letter to the Commission in respect of Ms Gobbo's evidence regarding her meetings with Federal Agents 3 and 4. In this letter, the Commission was advised that having had the benefit of reading a summary of Ms Gobbo's evidence to the Commission both Federal Agents 3 and 4 now recall attending a second meeting with Ms Gobbo. The letter also noted that Federal Agent 4 recalled that both meetings were sought by Ms Gobbo, the main topic was Solicitor 1 and the first meeting was general in nature but Ms Gobbo provided more specific information at the second meeting on 7 July 1998.¹⁰⁰
88. The AFP has advised the Commission that no investigations were commenced, arrests made or prosecutions undertaken on the basis of these meetings, nor was any attempt made to register Ms Gobbo as a human source. The AFP advised the Commission that it has not identified any other meetings between Ms Gobbo and the AFP beyond the interactions described or those referred to in documents already provided to the Commission.¹⁰¹
89. The AFP has further advised the Commission that Nicola Gobbo has never been a human source for the AFP.¹⁰²

November 1998 – Gobbo's proposed thesis

90. On 19 November 1998, Ms Gobbo signed the Roll of Counsel.¹⁰³
91. In around November 1998, Ms Gobbo was considering undertaking a thesis concerning police powers of investigation, including the use of undercover operatives and informers.
92. A 26 November 1998 notation in her Court Book is set out below:¹⁰⁴

⁹⁹ Exhibit RC1713 Letter from Clayton Utz to the Commission, 9 April 2020, RCMP1.0184.0001.0001

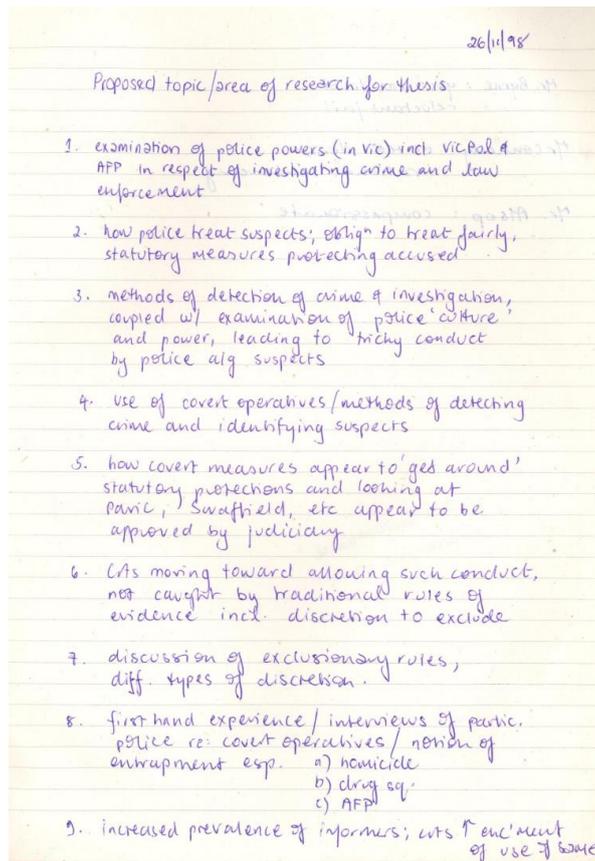
¹⁰⁰ Exhibit RC1712 Letter from Clayton Utz to the Commission, 27 May 2020, RCMP1.0182.0003.0001.

¹⁰¹ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 3 [29], RCMP1.0100.0001.0001 @.0003; Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9922, TRN.2019.11.27.01.

¹⁰² Transcript of Counsel Assisting the Royal Commission into the Management of Police Informants, 27 November 2019, 9923, TRN.2019.11.27.01.

¹⁰³ Exhibit RC0183 Victorian Bar profile of Ms Nicola Gobbo, 24 August 2006, 116, LSB.0001.0001.0001 @.0043.

¹⁰⁴ Exhibit RC0273 Court Book of Ms Nicola Gobbo, 26 November 1998, 22 MIN.0001.0005.0005 @.0022.



1997 to 1999 – Dragan Arnautovic

93. On 18 November 1997, Mr Dragan Arnautovic was arrested and charged by the Drug Squad in relation to commercial drug trafficking offences. It was alleged that he conducted a business selling and distributing significant quantities of heroin, in a quantity of at least 1,000 grams with a street value of a little less than \$1 million.¹⁰⁵
94. Mr Arnautovic was convicted following a trial by jury in September 1999. He was sentenced to 12 years' imprisonment, with a non-parole period of nine years' imprisonment.¹⁰⁶
95. During Mr Arnautovic's proceedings, he was represented by Ms Gobbo in her capacity as a solicitor whilst employed at Law Firm 1 Barristers & Solicitors.¹⁰⁷ Ms Gobbo continued to represent Mr Arnautovic after she became a barrister in late 1998, including appearing as junior counsel at his trial proceedings through to October 1999.

¹⁰⁵ *R v Arnautovic* [2001] VSCA 34, [8].

¹⁰⁶ Exhibit RC1831 'A Return of Prisoners Convicted at the Sittings of the County Court held at Melbourne And Sentenced on 13 October 1999', 1, COR.1011.0001.0002 @.0001; Exhibit RC1891 Transcript of proceedings, *The Queen v Dragan Arnautovic* (County Court of Victoria, Judge Crossley, 13 October 1999) 8, COR.1011.0001.0002 @.0008; Exhibit RC1785 Criminal History Report for Dragan Arnautovic dated 10 December 2019, 3, VPL.0099.0193.0199 @.0201.

¹⁰⁷ Transcript of Mr Wayne Strawhorn, 30 April 2019, 1074, TRN.2019.04.30.01; Exhibit RC1729 Letter from Solicitor 1, 8 December 1997, produced by the Office of Public Prosecutions Victoria in response to a Commission Notice to Produce, 92, RCMPI.0010.0001.0003 @.0092; Transcript of Mr Wayne Strawhorn, 30 April 2019, 1082, TRN.2019.04.30.01.

96. The Commission became aware of a number of concerning aspects of Ms Gobbo's representation of Mr Arnautovic, including the following matters:
- 96.1. In addition to representing Mr Arnautovic, Ms Gobbo also represented a number of other accused arrested as part of the same investigation, in circumstances where a conflict existed between the interests of her clients.¹⁰⁸
- 96.2. It is apparent that members of the Drug Squad had a belief that Ms Gobbo's employer, Solicitor 1, was engaging in criminal activity.¹⁰⁹ On 2 February 1998, Detective Senior Sergeant Mark Bowden and Mr Kruger, exerted pressure upon Ms Gobbo to assist them to implicate Solicitor 1.¹¹⁰ Ms Gobbo subsequently provided information about Solicitor 1, contrary to the interests of at least one other of her clients, to Victoria Police and members of the AFP. In May 1999, Ms Gobbo was introduced by Mr Strawhorn and Mr Kruger to two members of the Asset Recovery Squad, who formally registered her as a human source.
- 96.3. Throughout this period, Ms Gobbo was communicating with Mr Strawhorn in relation to another client [REDACTED]. According to the diaries and day books of Mr Strawhorn, he and Ms Gobbo met on around nine occasions between May 1998 and August 1999, including six times in relation to the other clients.¹¹¹
- 96.4. Ms Gobbo acknowledged that during meetings with Mr Strawhorn, he was able to elicit information from her which she had gained in her role as a lawyer, acting for people charged by the Drug Squad, which would have been improper for her to have given.¹¹²
- 96.5. Ms Gobbo said she would not have told Mr Arnautovic about her dealings with Mr Strawhorn during this period.¹¹³
97. On 27 April 2019, Victoria Police provided documents to the Commission regarding the legal proceedings of Mr Arnautovic. These documents included an IR written by Mr Strawhorn dated 27 May 1999, which may well have been relevant to Mr Arnautovic's defence but was not disclosed to him at the time.¹¹⁴ Mr Strawhorn was examined about this and other issues of disclosure related to Mr Arnautovic.¹¹⁵
98. Following the hearing of Mr Strawhorn's evidence on 30 April 2019, Victoria Police advised the Commission that it would make disclosure of relevant materials to the Office of Public Prosecutions (OPP).¹¹⁶

¹⁰⁸ Footnote not used.

¹⁰⁹ Exhibit RC0083 Fax from OPP to Mr Wayne Strawhorn enclosing letter from Solicitor 1, 17 December 1997, 4-9, RCMP1.0010.0001.0004 @.0004-.0009.

¹¹⁰ Exhibit RC0095 Ms Nicola Gobbo diary, 2 February 1998, 89 MINRC.0002.0001.0005 at .0089.

¹¹¹ Exhibit RC0080 Statement of Mr Wayne Strawhorn, 18 April 2019, 2 [11], COM.0040.0001.0002.

¹¹² Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 46, Ms Gobbo and RCMP1 13.06.2019; Transcript of Ms Nicola Gobbo, 4 February 2020, 13028-29, TRN.2020.02.04.01.

¹¹³ Transcript of Ms Nicola Gobbo, 4 February 2020, 13463, TRN.2020.02.04.01.

¹¹⁴ Further detail about the contents of the information report is contained in the case review of Mr Arnautovic.

¹¹⁵ Transcript of Mr Wayne Strawhorn, 30 April 2019, 1121-23, TRN.2019.04.30.01.

¹¹⁶ Transcript of Mr Wayne Strawhorn, 30 April 2019, 1124-27, TRN.2019.04.30.01.

99. On 17 April 2020, the OPP sent a letter to the Commission. In the letter the OPP advised the Commission that on 16 September 2019, after numerous requests to Victoria Police, it disclosed to Mr Arnautovic the contents of the IR written by Mr Strawhorn dated 27 May 1999. The OPP also advised the Commission that it had identified that the statement of Mr Jackson dated 4 September 2019, being Exhibit RC1261, contained relevant information that ought to be disclosed to Mr Arnautovic.¹¹⁷

1999 – Operation Ramsden

100. On 28 April 1999, Mr Kruger had a discussion with Detective Senior Constable Jeffrey Pope of the Asset Recovery Squad in relation to the allegations made by Ms Gobbo that Solicitor 1, now her former employer, had engaged in money laundering.¹¹⁸
101. The Asset Recovery Squad commenced an investigation known as Operation Ramsden into Solicitor 1. At the time, the Asset Recovery Squad was part of the Crime Department, attached to the Major Fraud Group. It investigated activities associated with asset recovery and the Confiscation Act 1997 (Vic), namely the confiscation of illicit profits. The Asset Recovery Squad frequently came into contact with the Drug Squad because of the cross-over in their respective investigations.
102. A number of meetings subsequently occurred between members of the Asset Recovery Squad and the Drug Squad regarding this investigation. Mr Lim recalled that these meetings often occurred in the muster room of the Drug Squad, which was an open area. Consequently, many people may have been aware that Ms Gobbo was providing information to Victoria Police at that time.¹¹⁹
103. On 28 April 1999, there was a meeting between Mr Kruger, Mr Strawhorn and Mr Pope.¹²⁰
104. On 12 May 1999, a further meeting occurred at the Drug Squad premises between Mr Kruger, Mr Strawhorn, Mr Pope and Detective Sergeant Gavan Segrave, who was also a member of the Asset Recovery Squad. Mr Kruger recalls that the likely purpose of that meeting was to prepare for the introduction of Ms Gobbo to the Asset Recovery Squad.¹²¹ Later that day, Mr Pope and Mr Segrave met with Ms Gobbo at the Emerald Hotel in South Melbourne to discuss her allegations regarding Solicitor 1.¹²²
105. The following day, 13 May 1999, Mr Pope made an application to register Ms Gobbo as a human source. In this application he stated that she was to

¹¹⁷ Exhibit RC1730 Letter from the OPP to the Commission, 17 April 2020, RCMPI.0190.0001.0001.

¹¹⁸ Exhibit RC0063 Mr Jeffrey (Jeff) Pope diary, 28 April 1999 VPL.0005.0007.0164; Transcript of Mr Jeffrey (Jeff) Pope, 1 April 2019, 712, TRN.2019.04.01.01.

¹²⁰ Exhibit RC0064 Statement of Mr Kruger, 28 March 2019, 4 [24], VPL.0014.0012.0001 @.0004; Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 333, TRN.2019.03.27.01.

¹²¹ Exhibit RC0064 Statement of Mr Kruger, 28 March 2019, 5 [28], VPL.0014.0012.0001 @.0005.

¹²² Exhibit RC0033 Asset Recovery Unit Information Report FEIR1056, 28 May 1999, VPL.0005.0007.0193.

provide information largely related to 'fraud/money laundering'. The application included Ms Gobbo's previous criminal record.¹²³

106. On 26 May 1999, Mr Segrave approved the application to register Ms Gobbo as a human source. Mr Pope was assigned as her handler. In Mr Segrave's comments on the application form recommending the registration of Ms Gobbo as an informer, he noted; 'it is believed [informant] will be an ongoing source of info re money laundering/fraud activities. Is both credible/reput...informer had no known previous history of supplying information to law enforcement agencies'.¹²⁴ Ms Gobbo was assigned the registration number 'MFG 13'.¹²⁵
107. In his statement to the Commission, Mr Segrave noted that the relevant Victoria Police policy would have provided little guidance on the appropriate registration of informers.¹²⁶ There were few informers registered by the Major Fraud Group at the time.
108. Mr Segrave further noted that Ms Gobbo may not have been aware that she had been registered as an informer at the time.¹²⁷ The Victoria Police policy did not require informers to be informed of their registration, and the practice was that informers were usually not told.¹²⁸
109. On 17 May 1999, Mr Pope and Mr Segrave met with Ms Gobbo to discuss the allegations she had made against Solicitor 1. The IR submitted by Mr Pope concerning the meeting recorded that she had made a range of allegations against Solicitor 1, including that:
 - 109.1. he was fraudulently charging clients eligible for funding from Legal Aid, and simultaneously receiving payments from Legal Aid
 - 109.2. he was charging clients for money that had been already paid under cost certificates
 - 109.3. he was breaching his obligations in relation to his trust account
 - 109.4. he was breaching his obligations under the Legal Practices Act.¹²⁹
110. In evidence before the Commission, Ms Gobbo recalled that Mr Kruger told her that he believed Mr Reid was using his financial position as a real estate agent to launder money, and that Solicitor 1 was somehow involved. She recalled that she told Solicitor 1 that she was being pressured by Mr Kruger and Mr Strawhorn to provide information. She gave evidence that Solicitor 1

¹²³ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 334, TRN.2019.03.27.01; Exhibit RC0034 Informer Registration Application, 13 May 1999, VPL.0005.0013.0952.

¹²⁴ Exhibit RC0034 Informer Registration Application, 13 May 1999, VPL.0005.0013.0952.

¹²⁵ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 334, TRN.2019.03.27.01.

¹²⁶ Exhibit RC0032 Statement of Detective Inspector Gavan Segrave, 22 March 2019, 5 [14], VPL.0014.0004.0001 @.0003.

¹²⁷ Exhibit RC0032 Statement of Detective Inspector Gavan Segrave, 22 March 2019, 5-6 [17] VPL.0014.0004.0001 @.0005-06.

¹²⁸ Exhibit RC0032 Statement of Detective Inspector Gavan Segrave, 22 March 2019, 5-6 [17], VPL.0014.0004.0001 @.0005-06.

¹²⁹ Exhibit RC0035 Asset Recovery Unit Information Report FEIR1058, 28 May 1999, VPL.0005.0007.0194.

wrote to Mr Kruger telling him to stop asking Ms Gobbo to speak about Solicitor 1 and the firm's clients.¹³⁰

111. On 20 May 1999, Mr Strawhorn informed Mr Pope of additional registered informers who also could be in a position to assist the investigation due to their association with Solicitor 1.¹³¹
112. In an Information Report (IR) submitted by Mr Pope on 26 May 1999, he recorded that Mr Kruger and Mr Lim had introduced Ms Gobbo to Member 1 of the NCA.¹³² Member 1 had told Mr Pope that Ms Gobbo had 'told them the exact same information which is outlined in previous information reports for this job.'¹³³ Member 1's evidence was that, having not had access to all of the relevant diaries for that period, she could not recall having had any involvement in any investigation involving Ms Gobbo.¹³⁴
113. Around this time the NCA commenced an investigation, known as Operation Adesine, into Solicitor 1 and Mr Reid.¹³⁵
114. In late May and early June 1999, Mr Pope and Mr Segrave met with other individuals in relation to the investigation.¹³⁶
115. During this time, Mr Pope was in regular contact with Ms Gobbo. IRs submitted by Mr Pope record that they discussed both personal matters, such as Mr Pope's law studies, as well as information regarding Solicitor 1.¹³⁷ She provided him with computer discs containing documents from Solicitor 1's computer that she said were relevant to her allegations that he was engaging in money laundering.¹³⁸ In evidence to the Commission, Mr Paterson said that Victoria Police had not been able to locate those discs and accordingly, the contents of these discs are not known.¹³⁹
116. IRs submitted by Mr Pope indicate that he and Ms Gobbo also discussed Ms Gobbo's ongoing contact with Mr Reid, and the progression of Mr Reid's matter in court.¹⁴⁰ In his evidence to the Commission, Mr Pope could not recall whether he knew Ms Gobbo was representing Mr Reid at the time.¹⁴¹

¹³⁰ Exhibit RC0788, Transcript of conversation between Ms Gobbo and the Commission 11.04.2019, 11 April 2019, 289-90 2019, TRN.2019.03.29.01.

¹³¹ Exhibit RC0037 Asset Recovery Unit Information Report FEIR1060, 28 May 1999, VPL.0005.0007.0197.

¹³² Exhibit RC0038 Asset Recovery Unit Information Report FEIR1062, 28 May 1999, VPL.0005.0007.0198.

¹³³ Exhibit RC0038 Asset Recovery Unit Information Report FEIR1062, 28 May 1999, VPL.0005.0007.0198.

¹³⁴ Exhibit RC1412 Statement of Member 1, 1 May 2019, 3 [8], VPL.0014.0024.0001 @.0003.

¹³⁵ Exhibit RC0037 Asset Recovery Unit Information Report FEIR1060, 28 May 1999, VPL.0005.0007.0197; Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 339, TRN.2019.03.27.01.

¹³⁶ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 338, TRN.2019.03.27.01; Exhibit RC0063 Mr Jeffrey (Jeff) Pope diary, May - June 1999, 5-6 VPL.0005.0007.0164 @.0168-.0169.

¹³⁷ Exhibit RC0039 Asset Recovery Unit Information Report FEIR1065, 14 June 1999, VPL.0005.0007.0202; Exhibit RC0041 Asset Recovery Unit Information Report FEIR1068, 14 June 1999, VPL.0005.0007.0205.

¹³⁸ Exhibit RC0042 Asset Recovery Unit Information Report FEIR1069, 14 June 1999, VPL.0005.0007.0206; Exhibit RC0043 Asset Recovery Unit Information Report FEIR1071, 14 June 1999, VPL.0005.0007.0208.

¹³⁹ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 339, TRN.2019.03.27.01.

¹⁴⁰ Transcript of Mr Jeffrey (Jeff) Pope, 1 April 2019, 780, TRN.2019.04.02.01.

¹⁴¹ Transcript of Mr Jeffrey (Jeff) Pope, 1 April 2019, 780, TRN.2019.04.02.01.

117. On 23 June 1999, during a telephone conversation, Ms Gobbo asked Mr Pope whether consent could be obtained to a variation of a restraining order on a property in [REDACTED] owned by her client.¹⁴² Mr Pope had told her that he would speak to the informant in the matter. During evidence, Mr Pope agreed that this would not be the 'appropriate way' of seeking this information, but that Ms Gobbo was likely 'testing the relationship' between them.¹⁴³ No charges were ever laid out of this operation.
118. Between August and October 1999, Mr Pope continued to have some contact with Ms Gobbo in relation to Operation Ramsden. The information that Ms Gobbo provided during that time was described as being of no value by Mr Pope. In an IR he submitted on 5 October 1999, he recorded that he had met with Ms Gobbo on 1 October 1999, but she did not have any new information to provide and was mainly interested in how the investigation was progressing.¹⁴⁴
119. In a letter dated 3 January 2000, addressed to the Officer in Charge (OIC) of the Asset Recovery Squad, Mr Segrave wrote that investigators had had no contact with Ms Gobbo since 23 September 1999 and a final report would shortly be submitted in relation to Operation Ramsden. Mr Segrave requested that Ms Gobbo be reclassified from 'active' to 'inactive' in accordance with the informer management guidelines that were in place at the time. A handwritten note on the letter indicates that deregistration of Ms Gobbo was recommended.¹⁴⁵
120. There is no suggestion in the evidence before the Commission that Ms Gobbo provided any further information to Mr Pope after 1 October 1999.
121. In October 2011, Ms Gobbo alleged that she had had a sexual relationship with Mr Pope. This admission occurred during a conversation between herself, Detective Senior Sergeant Boris Buick and Detective Sergeant Jason Lebusque, in which she said:

I'll tell you something that Sandy White doesn't know, just as a skerrick of information that you'll laugh at. Do you know who the Assistant Commissioner was who I only found after the event who was overseeing my handling when I was being looked after Petra? Was Jeff Pope for a while, wasn't it?

...

Would think [sic] it was appropriate if I had a sexual relationship with you that you looked after that committee. How's that for (inaudible) for you. Have a look at Boris's face. I wish I take a photo of that.

...

I'm telling the truth

...

¹⁴² Exhibit RC0047 Asset Recovery Unit Information Report, 27 June 1999, VPL.0005.0007.0217.

¹⁴³ Transcript of Mr Jeffrey (Jeff) Pope, 1 April 2019, 782, TRN.2019.04.02.01.

¹⁴⁴ Exhibit RC0049 Asset Recovery Unit Information Report, unnumbered, 5 October 1999, VPL.0005.0007.0219.

¹⁴⁵ Exhibit RC0050 Letter from Gavan Segrave re: recommendation to reclassify Nicola Gobbo as inactive, 3 January 2000, VPL.0002.0002.0053.

On and off for a few months

...

Then I saw him being you on TV and I went, I said to my sister, oh my God!

...

I just think it is hilarious, isn't that inappropriate? Can you imagine the complaint I could make about that? I bet you he hasn't declared it.¹⁴⁶

122. In an affidavit dated 2 November 2011, Mr Pope rejected Ms Gobbo's allegations, stating that he had not had a sexual relationship with Ms Gobbo.¹⁴⁷ In this affidavit, he said that he met with Ms Gobbo on around six occasions. These meetings occurred in public places with a colleague present or in the vicinity.¹⁴⁸ He further stated that the last time he saw Ms Gobbo he unexpectedly bumped into her and they had a coffee. During this conversation, Ms Gobbo asked him if their relationship 'was likely to develop into something more personal'. Mr Pope said that he declined and told her he was happily married.¹⁴⁹
123. Ms Gobbo's diaries contain entries which suggest that she had met Mr Pope on a handful of occasions other than those identified in his contact report. The content of the entries were equivocal as to the nature of any relationship. The last such entry appeared on a date shortly prior to Ms Gobbo travelling overseas, which appears consistent with Mr Pope's account of their last meeting.
124. Ms Gobbo's diary around this period suggested a sexual relationship with a federal agent to whom she was also providing information. Ms Gobbo gave evidence she could not recall this.¹⁵⁰ Ms Gobbo could not recall the details of any specific occasion when she and Mr Pope had engaged in sexual intercourse. When pressed during her evidence she became more equivocal about whether such a relationship had occurred.¹⁵¹

125. It is submitted that the Commissioner ought not make a finding that Mr Pope had any sexual relation with Ms Gobbo.

¹⁴⁶ Exhibit RC0062 Transcript of conversation between Ms Nicola Gobbo and Inspector Boris Buick, 21 October 2011, VPL.0002.0002.0072 @.0072-.0073.

¹⁴⁷ Exhibit RC0061 Affidavit of Mr Jeffrey (Jeff) Pope, 2 November 2011, 3 [13]–[14], VPL.0002.0002.0067 @.0069.

¹⁴⁸ Exhibit RC0061 Affidavit of Mr Jeffrey (Jeff) Pope, 2 November 2011, 2 [5], VPL.0002.0002.0067 @.0068.

¹⁴⁹ Exhibit RC0061 Affidavit of Mr Jeffrey (Jeff) Pope, 2 November 2011, 1 [4], VPL.0002.0002.0067 @.0067.

¹⁵⁰ Transcript of Ms Nicola Gobbo, 4 February 2020, 13020 - 13021, TRN.2020.02.06.01.

¹⁵¹ Transcript of Ms Nicola Gobbo, 11 February 2020, 13814, TRN.2020.02.06.01.

1993 to 1999 – Gobbo’s Desire to Inform

126. During her evidence before the Commission, the following exchange took place:¹⁵²

MR WINNEKE: You wanted to be a part of it, you wanted to ingratiate yourself with these people, do you accept that?

MS GOBBO: Yeah, I - looking back I wanted to belong, I wanted to be the, the, um, the holder of every bit of information about every drug trafficker up and down the supply chain. Um, and income wise those people were the worst people to, um, work for because they paid their QC's and everybody else was left waiting, but it was mostly my, um, pathetic as it sounds, my, um, inability to say no and my, um, my need to be, I guess to be wanted or to be valued or feel valued.

MR WINNEKE: Right. And you were prepared, those feelings were stronger than your obligations or what you regarded as your obligations, or understood your obligations to the courts and to the people you were representing, those important legal obligations?

MS GOBBO: Well they were obviously compromised.

127. Whilst the above exchange commenced with a discussion regarding later conflict of interest, it is telling in relation to Ms Gobbo’s conduct in providing, and attempting to provide, information to the police between 1993 and 1999 set out above.

128. **On the evidence, it is open to the Commissioner to find that between 1993 and 1999, Ms Gobbo demonstrated both a willingness and strong desire to inform to law enforcement authorities about her partner, her employer and her clients. The initial period of informing suggested a motivation to benefit herself because of the predicament in which she found herself. Subsequently, the motivation discussed by Ms Gobbo in the passage above became more apparent. Of significance, Ms Gobbo’s professional practice enabled her to become possessed of confidential information, and she demonstrated a preparedness to provide that information to law enforcement authorities, even if it was contrary to the interests of her clients or those of her employer.**

129. **Support for such findings includes evidence of the following matters:**

- **her interactions concerning Mr Wilson**
- **her interactions with Mr Trevor Ashton, Mr Arthur and Mr Argall**

¹⁵² Exhibit RC0062 Transcript of conversation between Ms Nicola Gobbo and Inspector Boris Buick, 21 October 2011, 1-2, VPL.0002.0002.0072 @.0072-73.

- her interactions with Mr Kruger and Mr Lim
- her interactions with Federal Agent 1 and Federal Agent 2
- her interactions with Federal Agent 3 and Federal Agent 4
- her consideration of thesis topics in November 1998
- her interactions with Mr Bowden, Mr Kruger and Mr Strawhorn
- her interactions with Mr Pope and Mr Segrave.

CHAPTER 2 – 2000 – CORRUPTION IN THE DRUG SQUAD

Introduction

130. In December 2000 corruption was identified as a serious issue in the Drug Squad.¹⁵³
131. The corruption developed within a unit of the Drug Squad called the Chemical Diversion Desk (CDD), which was staffed by Detective Senior Sergeant Wayne Strawhorn, Detective Sergeant Malcolm Rosenes and Detective Senior Constable Stephen Paton.¹⁵⁴
132. In December of 2000, a representative of pharmaceutical company Sigma Limited, reported to Victoria Police that suspicious purchases of pharmaceutical drugs had been made by Mr Strawhorn and other members of the CDD.¹⁵⁵ Mr Paton resigned from Victoria Police on 22 December 2000.
133. In early 2001, the Ethical Standards Division (ESD) commenced Operation HEMI, relating to allegations that members of the CDD were making regular unauthorised purchases of chemicals.¹⁵⁶ Detective Inspector Peter De Santo led Operation HEMI.¹⁵⁷

Operations Kayak and Plutonium

134. In around August 2000, Mr Paton arrested and charged Person 3 with serious drug offences. Person 3 was subsequently registered as a human source and provided the Drug Squad with valuable information relating to several individuals [REDACTED].
135. This led to the commencement in October 2000 of a major Drug Squad investigation into commercial drug trafficking, Operation Kayak, and in November 2000, of a Commonwealth investigation into the importation of drugs by a well-established and organised criminal syndicate, Operation Plutonium.¹⁵⁸ As part of those investigations [REDACTED]
[REDACTED]
[REDACTED] and others.¹⁵⁹

¹⁵³ Transcript of Ms Christine Nixon, 18 December 2019, 11576, RC_MPI_18Dec19_provisional.

¹⁵⁴ Exhibit RC0156 Statement of Mr Malcolm Rosenes, undated, 1, COM.0047.0001.0002; Transcript of Ms Christine Nixon, 18 December 2019, 11576, RC_MPI_18Dec19_provisional.

¹⁵⁵ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 7, VPL.0005.0254.0213 @.0219; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 30, VPL.0015.0002.0033 @.0062.

¹⁵⁶ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, 44 [5.3] VPL.0014.0005.0001 @.0044.

¹⁵⁷ Exhibit RC0097 Statement of Mr Peter De Santo, 7 May 2019, 1 [4], VPL.0014.0026.0001 @.0001.

¹⁵⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 12, VPL.0015.0002.0033 @.0044; Exhibit RC1792 Summary of Person 3 Involvement with Victoria Police since September 2000, MIN.0002.0003.1612; Exhibit RC1791 Summary of Operation Offence, Operation Kayak, VPL.6064.0200.3502; Exhibit RC1130 Issue Cover Sheet, 25 September 2014, Legal Conflict Report, 2 October 2014, VGSO.2000.1501.0263.

¹⁵⁹ R v [REDACTED] [2006] VSC 119 [50] RCMPI.0009.0002.0079 @.0011. [publicly available]

Early Gobbo Involvement around Operation Kayak

136. Following the arrest of Person 3, members of the Asset Recovery Squad, Mr Pope and Senior Constable James (Jim) Coghlan, searched his premises in [REDACTED].¹⁶⁰
137. Mr Pope had registered Ms Gobbo as a human source in 1999, although by August 2000, he was no longer actively receiving information from her. Mr Pope gave evidence that following the search, Ms Gobbo called him and said words to the effect of 'you've got no idea what you've stumbled across'.¹⁶¹ Ms Gobbo told the Commission she assumed she was referring to the fact that Person 3 was at the centre of a drug dealing and informing relationship, which from her perspective was not appropriate or legal. She said it was not uncommon during that period for an accused to divulge they had far more cash and drugs than the police declared in an exhibit log as having been seized, although it was never in their interest to pursue a complaint about it.¹⁶²
138. Assuming Mr Pope is correct about his recollection of the timing of Ms Gobbo's call to him, Ms Gobbo may not have been correct, at least in respect of Person 3 being at the centre of a drug dealing and any formal informing relationship, as he was not registered as a human source until after this time.¹⁶³
139. As well as her conversation with Mr Pope, it appears Ms Gobbo later met with Mr Strawhorn in relation to the Operation Kayak investigation. On 11 December 2000, Mr Strawhorn recorded in his diary 'meeting barrister Gobbo re Kayak',¹⁶⁴ and Ms Gobbo recorded in her diary 'Wayne Strawhorn (?)'.¹⁶⁵
140. This meeting occurred at a time when the Operation Kayak investigation was ongoing, and no charges had been laid. The two most obvious reasons for such a meeting would be either that Ms Gobbo was acting as a legal representative for Person 3 (there is no evidence before the Commission to suggest this was the case and Ms Gobbo denied she ever had so acted¹⁶⁶), or that she herself was providing information relevant to Operation Kayak. It is submitted that both scenarios would be of concern, however the evidence is insufficient to support a relevant finding. It would be of concern because Ms Gobbo later represented numerous people who were charged following arrests arising these investigations, where she knew Person 3 to be the human source. In particular, she represented several people arrested as a result of Operation Kayak, one of whom was Mr Antonios (Tony) Mokbel. Notably, Ms Gobbo had been introduced to Mr Pope as a potential human

¹⁶⁰ Exhibit RC0057 Statement of Mr Jeffrey (Jeff) Pope, 1 April 2019, 4 [22], RCMP.0005.0001.0001_R1 @.0004.

¹⁶¹ Transcript of Mr Jeffrey (Jeff) Pope, 2 April 2019, 790, TRN.2019.04.02.01.P.

¹⁶² Exhibit RC0788 Transcript of meeting between Ms Nicola Gobbo and the Commission, 11 April 2019, 920-921, Ms Gobbo and RCMP 11.04.2019.

¹⁶³ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 12, VPL.0015.0002.0033 @.0044; Transcript of Mr Peter De Santo, 9 May 2019, 1485, TRN.2019.05.09.01.C.

¹⁶⁴ Exhibit RC0087 Mr Wayne Strawhorn diary, 11 December 2000, 78, VPL.0005.0059.0001_R2_P @.0078.

¹⁶⁵ Exhibit RC0273 Ms Nicola Gobbo diary, 11 December 2000, 72, MIN.0001.0014.0255 @.0326.

¹⁶⁶ Exhibit RC0788 Transcript of conversation between Ms Nicola Gobbo and the Commission, 11 April 2019, 905, Ms Gobbo and RCMP 11.04.2019.

source by Mr Strawhorn and told the Commission that she likely provided Mr Strawhorn with confidential information at times.¹⁶⁷

141. Mr Strawhorn told the Commission that he could not recall the meeting, but he assumed it was in relation to an individual that she was defending.¹⁶⁸
142. The Commission was unable to determine the purpose of the meeting between Mr Strawhorn and Ms Gobbo.

Charging of Paton and Rosenes

143. In late 2000, Person 3, concerned about what had been taking place with Mr Paton and Mr Rosenes, began recording incriminating conversations with them, demonstrating their involvement in drug trafficking.¹⁶⁹
144. In June 2001, Person 3 and his barrister, Mr [REDACTED], met with Mr De Santo. Person 3 provided Mr De Santo with two compact discs containing these recordings.¹⁷⁰
145. In July 2001, at the direction of the ESD, Person 3 met with Mr Rosenes. During this meeting, Mr Rosenes indicated that he was able to obtain 500,000 ecstasy tablets from another human source and offered to sell them to Person 3.¹⁷¹
146. On 29 July 2001, Mr Paton and Mr Rosenes along with four other offenders were arrested for trafficking in commercial quantities of a drug of dependence.¹⁷² Over 50,000 ecstasy tablets were seized.¹⁷³ These charges resulted primarily from the misuse of the former Drug Squad's Chemical Diversion Program.¹⁷⁴ Mr Strawhorn was not implicated in the corruption until a later time.
147. On 24 August 2001, a number of individuals, including Mr Tony Mokbel, were arrested and charged as part of the Commonwealth Operation Plutonium investigation, which involved the importation of a trafficable quantity of cocaine into Australia from Mexico between October and December 2000.¹⁷⁵
148. At the same time charges were also laid for State drug offences as part of the Operation Kayak investigation against Messrs Tony Mokbel, Luxmore (a

¹⁶⁷ Exhibit RC0788 Transcript of conversation between Ms Nicola Gobbo and the Commission, 11 April 2019, 895-901 Ms Gobbo and RCMP 11.04.2019; Transcript of Ms Nicola Gobbo, 4 February 2020, 13028-13029, TRN.2020.02.04.01.P.

¹⁶⁸ Transcript of Mr Wayne Strawhorn, 1 May 2019, 1180-1181, RC_MPI_1May19_Provisional.

¹⁶⁹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 12, VPL.0015.0002.0033 @.0044.

¹⁷⁰ Exhibit RC1796 Taskforce Kayak, Chronology of Events, 23, MIN.0001.0012.0448 @.0470.

¹⁷¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, Ceja Taskforce Investigation of Allegations of Drug Related Corruption, May 2003, 12, VPL.0015.0002.0033 @.0044.

¹⁷² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, 45 [5.4], VPL.0014.0005.0001 @.0045.

¹⁷³ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 6, VPL.0015.0002.0033 @.0038.

¹⁷⁴ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 6, VPL.0015.0002.0033 @.0038.

¹⁷⁵ Further analysis of Mr Tony Mokbel's case is contained in his case review.

pseudonym), Rabie Karam and Joseph Parisi.¹⁷⁶ Amongst the people arrested as a result of the investigations was Mr Andrew Hodson, whom Ms Gobbo later represented. On 27 November 2001, Mr Milad Mokbel was also arrested and interviewed in relation to that investigation.¹⁷⁷

Arrival of Chief Commissioner Christine Nixon

149. From April 2001 to March 2009, Ms Christine Nixon was the Chief Commissioner of Victoria Police.¹⁷⁸
150. Prior to joining Victoria Police, Ms Nixon was an Assistant Commissioner with the New South Wales (NSW) Police Force. She had been appointed as an Assistant Commissioner, responsible for human resources and education, three days before the announcement of the Royal Commission into the New South Wales Police (Wood Royal Commission).¹⁷⁹
151. The Wood Royal Commission ran from 1994 until 1997. Ms Nixon had responsibilities which included the implementation of recommendations from the Wood Royal Commission on behalf of NSW Police Commissioner Peter Ryan, who had been appointed in 1996. Ms Nixon said that this experience had influenced her approach to the corruption issues in the Drug Squad in Victoria Police.¹⁸⁰
152. The Wood Royal Commission had uncovered serious abuses and criminal conduct within NSW police, including in the regions and in specialist squads such as the Drug Squad. It discovered that such corruption could establish itself and spread very quickly with police members becoming desensitised to such conduct. Ms Nixon described a 'slippery slope' in which individuals would at first engage in corruption of a less serious nature and slide into significant corruption, which needed to be detected and cut off early.¹⁸¹
153. Ms Nixon told the Commission that during her career with the NSW Police Force, she had limited operational experience by virtue of restrictions placed upon females to undertake such work at the time. She said her only real experience in operational policing had been during her time at the Darlinghurst police station. This had involved station duties, 'working in cars', and a period in the Criminal Investigation Branch in which she variously dealt with young females charged with a variety of offences and took statements from sexual assault complainants.¹⁸² Ms Nixon said she had been one of the first women in New South Wales to have worked in such an operational capacity.

¹⁷⁶ Exhibit RC1848 Police Summary of Evidence, R v Antonios Mokbel, 17, RCMP1.0010.0005.0001 @.0017.

¹⁷⁷ Exhibit RC1866 Remand/Bail Application of Mr Milad Mokbel, 27 November 2001, 30, RCMP1.0010.0005.0001 @.0030; Further analysis of Mr Tony Mokbel's case is contained in his case review.

¹⁷⁸ Exhibit RC0920 Statement of Ms Christine Nixon, 30 October 2019, 1 [3], VPL.0014.0071.0001_S @.0001.

¹⁷⁹ Transcript of Ms Christine Nixon, 18 December 2019, 11576, RC_MPI_18Dec19_provisional.

¹⁸⁰ Transcript of Ms Christine Nixon, 18 December 2019, 11577, RC_MPI_18Dec19_provisional.

¹⁸¹ Transcript of Ms Christine Nixon, 18 December 2019, 11577, RC_MPI_18Dec19_provisional.

¹⁸² Exhibit RC0920 Statement of Ms Christine Nixon, 30 October 2019, 1 [6], VPL.0014.0071.0001_S @.0001; Transcript of Ms Christine Nixon, 18 December 2019, 11561, RC_MPI_18Dec19_provisional.

The Purton Review

154. In August 2001, Ms Nixon commissioned the Corporate Management Review Division Project Group (CMRDPG) to undertake a comprehensive review of the Drug Squad.¹⁸³ Detective Superintendent Terry Purton oversaw the review and produced a report entitled 'Review of the Victoria Police Drug Squad August/September 2001' (Purton Review).¹⁸⁴
155. In November 2001, the Purton Review was endorsed by a Steering Committee responsible for approval of the review.¹⁸⁵ In December 2001, Mr Purton provided Ms Nixon with a copy of the Purton Review.¹⁸⁶

Examination of Corruption Cases

156. The Purton Review confirmed that the Drug Squad was a high-risk area for corruption, especially in relation to its controlled chemical deliveries, informer management and exhibit and property handling.¹⁸⁷
157. It examined the recent cases of Mr Paton and Mr Rosenes, as well as a number of historical cases of corruption. One of these was the case of Detective Senior Constable Kevin Hicks, who had formed a corrupt association with Peter Pilarinos, the principal in a syndicate responsible for the manufacture and distribution of large quantities of methylamphetamine and other drugs.¹⁸⁸ Both had been gaoled in May 2000 in relation to the theft of chemicals from a police storage depot a number of years earlier. Ms Gobbo had been involved in the representation of Mr Pilarinos at various stages prior to his plea, and then provided advice as to his prospects of success in an appeal against sentence following his plea.¹⁸⁹
158. During the Purton Review certain management issues were identified that required explanation from those considered responsible.
159. On 1 November 2001, Deputy Commissioner Peter Nancarrow issued 'Reports to Answer' to six members of the Drug Squad, including Mr Strawhorn and Commander Lambert.¹⁹⁰ In January 2002 Mr Strawhorn was transferred to the Major Fraud Squad and Mr Lambert was transferred to administrative duties at head

¹⁸³ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, VPL.0005.0050.0001; Exhibit RC0920 Statement of Ms Christine Nixon, 30 October 2019, 6 [33], VPL.0014.0071.0001_S @.0006.

¹⁸⁴ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, VPL.0005.0050.0001.

¹⁸⁵ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, VPL.0005.0050.0001.

¹⁸⁶ Transcript of Ms Christine Nixon, 18 December 2019, 11578, RC_MPI_18Dec19_provisional.

¹⁸⁷ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, 20, VPL.0005.0050.0001 @.0020.

¹⁸⁸ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, 50, VPL.0005.0050.0001 @.0050.

¹⁸⁹ R v Hicks & Pilarinos [2000] VSC 236 (30 May 2000); Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report ,1 January 1995-13 March 2019, CNS.0001.0003.0037; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 73, OPP.0001.0004.0025 @.0097; Exhibit RC1741 Memorandum from Ms Nicola Gobbo to Mr Jim Valos, undated, MIN.5000.0002.1632; Exhibit RC1742 Memorandum from Ms Nicola Gobbo to Mr Jim Valos, undated, MIN.5000.0002.1628.

¹⁹⁰ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, 24, VPL.0005.0050.0001 @.0024; Transcript of Ms Christine Nixon, 18 December 2019, 11582, RC_MPI_18Dec19_provisional.

office.¹⁹¹ It is not suggested, and there is no evidence, that Mr Lambert, who was significantly further up the command hierarchy, was in any way involved in the offending of officers under his command.

Structural Change

160. The Purton Review identified problems with the internal workings of the Drug Squad, including its management and structure.¹⁹² Consequently, by January 2002 the Drug Squad was replaced with a new division called the Major Drug Investigation Division (MDID). Ms Nixon addressed members of the Drug Squad about its closure, and when questioned by some who indicated a lack of awareness about the corruption, Ms Nixon quoted Justice Wood from the Wood Royal Commission: '[If] you didn't know, you should have'.¹⁹³
161. In order to end the corruption, it was Ms Nixon's desire that the MDID would not include any members from the old Drug Squad,¹⁹⁴ however there was resistance to that course from The Police Association who threatened industrial action.¹⁹⁵ As a compromise, members were allowed to remain in the new division upon passing a series of assessments.¹⁹⁶ Consequently, a number of former Drug Squad members remained, including Mr David Miechel.
162. Ms Nixon's fears that former Drug Squad corruption issues would persist in the MDID were later realised when on 27 September 2003, Mr Miechel was arrested in relation to a burglary upon a 'drug house' which his MDID unit had under surveillance in the Operation Galop investigation. The burglary was committed with a human source for whom Mr Miechel was the handler, Mr Terrence Hodson.¹⁹⁷
163. Following the burglary ESD officers approached Ms Gobbo to introduce Mr Hodson to them, and he later agreed to co-operate with ESD investigators leading to the arrest and charging on 5 December 2003 of Mr Miechel as well as his Sergeant, Mr Paul Dale. Around six months later Mr Hodson and his wife were murdered in their home. These matters are referred to further in these submissions including at Chapter 6 (Gangland Wars and the Establishment of Purana).

Reform of Informer Management

164. The Purton Review further identified the lack of an appropriate force-wide management system for human sources as a critical risk to Victoria Police

¹⁹¹ Transcript of Ms Christine Nixon, 18 December 2019, 11582, RC_MPI_18Dec19_provisional.

¹⁹² Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, VPL.0005.0050.0001.

¹⁹³ Transcript of Ms Christine Nixon, 18 December 2019, 11672, RC_MPI_18Dec19_provisional.

¹⁹⁴ Exhibit RC0920 Statement of Ms Christine Nixon, 30 October 2019, 6-7 [34] VPL.0014.0071.0001_S @.0006-.0007; Transcript of Ms Christine Nixon, 18 December 2019, 11600, RC_MPI_18Dec19_provisional.

¹⁹⁵ Transcript of Ms Christine Nixon, 18 December 2019, 11600, RC_MPI_18Dec19_provisional.

¹⁹⁶ Transcript of Ms Christine Nixon, 18 December 2019, 11600, RC_MPI_18Dec19_provisional.

¹⁹⁷ Exhibit RC0920 Statement of Ms Christine Nixon, 30 October 2019, 6-7 [34], VPL.0014.0071.0001_S @.0006-.0007; Transcript of Ms Christine Nixon, 18 December 2019, 11600, 11601, RC_MPI_18Dec19_provisional.

and made a number of recommendations regarding this issue. These included:¹⁹⁸

- the introduction of a force-wide informer management policy, including a specific audit and compliance regime with requirements for record-keeping, monthly reviews of the informer relationship, quarterly reports prepared by the handler, quarterly inspections by the Local Informer Registrar and yearly audits by internal audit teams
- the establishment of an Informer Management Unit (IMU) within the Intelligence Data Centre Crime Department
- new requirements in relation to payments to informers
- the development of an advanced informer management training package primarily aimed at controllers.

165. The consequential reform is dealt with further at Chapter 3.

Establishment of the Ceja Taskforce

166. The Purton Review also recommended the establishment of a Taskforce to comprehensively and thoroughly investigate allegations of corruption and improper conduct.¹⁹⁹ The Ceja Taskforce was born as a result, which was headed by Mr De Santo.

Operation Clarendon

167. Operation Clarendon was the subject of an OPI 'own motion' investigation initiated in 2005, resulting in findings contained in the 'Report on Investigation into Operation Clarendon, June 2008' (OPI Report into Operation Clarendon). The Report had been substantially completed by August 2005, however, was not tabled until 2008 because persons the subject of the report were involved in proceedings before the courts.²⁰⁰

168. Operation Clarendon was established in 2002 to assess and investigate information provided to Victoria Police by an individual, known as Mr Kerry Milte, regarding organised crime.

169. Mr Milte was a former Commonwealth police officer, and a barrister. By 2002, he was holding himself out to be a consultant. He promoted himself to be a 'Mr Fixit', who could provide solutions to organisations with problems that had a law enforcement aspect, as well as someone who could assist law enforcement agencies. Mr Milte promoted himself as having connections to high-ranking police officers from various jurisdictions, who could be persuaded to influence investigations into alleged criminal or fraudulent conduct.²⁰¹

¹⁹⁸ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, 31, VPL.0005.0050.0001 @.0031.

¹⁹⁹ Exhibit RC0108 Review of the Victoria Police Drug Squad, Steering Committee Endorsed Final Report, November 2011, VPL.0005.0050.0001.

²⁰⁰ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 4, VPL.0005.0254.0213 @.0216.

²⁰¹ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 12-14, VPL.0005.0254.0213 @.0224-.0226; Transcript of Ms Christine Nixon, 18 December 2019, 11586, RC_MPI_18Dec19_provisional.

170. On 8 January 2002, an acquaintance of Mr Milte introduced him to Mr Lambert. Following this, Mr Lambert arranged for Mr Milte to meet Mr Strawhorn. The evidence suggested that Mr Milte was offering Messrs Lambert and Strawhorn information on organised crime figures.²⁰²
171. At the time, Mr Paul McKinnon had recently retired from the position of Assistant Commissioner of the NSW Police. He had previously registered Mr Milte as an informer. Ms Nixon knew Mr McKinnon through her father, who had also been a senior member of the NSW police. Mr McKinnon told the OPI that he had received a number of emails and telephone calls from Mr Milte indicating that he had information about organised crime figures in Victoria and possible links with corrupt Victorian police officers. Mr McKinnon said he arranged a meeting between Mr Milte and Ms Nixon as he wanted to 'offload' Mr Milte, and 'get him out of [his] hair'.²⁰³ Ms Nixon said that 'being new in some ways in Victoria and not really necessarily understanding the crime environment in Victoria, [she] agreed to meet with him'.²⁰⁴
172. Ms Nixon gave evidence to OPI investigators that, at the time, she had been speaking to a number of people within Victoria Police and in the Victorian community so as to acquaint herself with the Victorian criminal environment. She said that she had been 'surprised' about the failure of senior personnel to recognise that problems existed within Victoria Police.²⁰⁵
173. Ms Nixon viewed Mr Milte as 'one of those people who to her appeared to know lots about lots of things and had been around a long time and are useful to listen to'.²⁰⁶ Mr McKinnon did not tell her that Mr Milte had previously been registered as an informer. She told the OPI that her conversation with Mr Milte would have been very different had she been aware of that fact.
174. Over the course of a number of subsequent meetings, Ms Nixon determined that Mr Milte had information that needed to be followed up. Operation Clarendon was established, and Mr Milte was permitted to nominate those from Victoria Police with whom he wanted to work. He chose Mr Lambert, Mr Strawhorn and a third police member.²⁰⁷
175. Ms Nixon stated in a response to the draft report by the OPI which had noted the non-registration of Mr Milte by Victoria Police, that he had not been required to be registered under the Victoria Police policy in existence at the time. This was so as he had not personally been in possession of intelligence but was able to introduce an informer to investigators. In its final report the OPI noted that Mr Milte neither asked for, nor was he provided

²⁰² Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 13, VPL.0005.0254.0213 @.0225.

²⁰³ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 13, VPL.0005.0254.0213 @.0225; Transcript of Ms Christine Nixon, 18 December 2019, 11586, RC_MPI_18Dec19_provisional.

²⁰⁴ Transcript of Ms Christine Nixon, 18 December 2019, 11587, RC_MPI_18Dec19_provisional

²⁰⁵ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 13, VPL.0005.0254.0213 @.0225.

²⁰⁶ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 14, VPL.0005.0254.0213 @.0226.

²⁰⁷ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 14, VPL.0005.0254.0213 @.0226; Transcript of Ms Christine Nixon, 18 December 2019, 11587, RC_MPI_18Dec19_provisional.

with, payment for the information and assistance he provided to Victoria Police.²⁰⁸

176. The OPI Report into Operation Clarendon ultimately found that Operation Clarendon was mismanaged, and strayed well outside the Terms of Reference, allowing Mr Milte to pursue his own agendas, including furthering his own private consultancy business.²⁰⁹ For example, Mr Milte requested Mr Lambert assist in another matter where Mr Milte had been retained as a consultant in relation to an alleged fraud that was properly a civil matter. Mr Lambert reviewed the matter and arranged for it to be assessed by the Major Fraud Investigation Division, which circumvented the usual processes.²¹⁰
177. Additionally, the OPI Report into Operation Clarendon found that Mr Strawhorn was using Operation Clarendon to pursue his own agenda as well, using it to make inquiries into investigations that were being conducted in relation to his own past activities at the Drug Squad.²¹¹ In this regard, Mr Milte reported variously to Mr Strawhorn on 22 May 2002, Mr Lambert on 31 May 2002 and Mr McKinnon on 31 May 2002 that an ESD detective had been 'asking around' in relation to Mr Strawhorn. Mr Milte also reported having spoken with a barrister acting for a 'major drug trafficker' in committal proceedings. Mr Milte said he was told that the barrister's client had made allegations against Drug Squad members including Mr Strawhorn, that proceedings had potentially been adjourned because the barrister's client was speaking with the detective, this was undermining the prosecution of those cases and the ESD detectives had possibly formed relationships with the defence.²¹²
178. During this period Mr De Santo was conducting Ceja Taskforce investigations. Legal representatives acting for individuals charged by the Drug Squad, including Ms Gobbo, were interested to obtain information from him which would indicate whether their client's case was potentially affected by such corruption.²¹³
179. There is evidence of Ms Gobbo's interest in such issues, and of her contact with Mr De Santo during this period:
- 179.1. Ms Gobbo first has entries in her court book relating to proceedings involving Mr Mokbel from 23 January 2002. On 18 February 2002, she recorded a chronology of events which included reference to the prosecutions of Messrs Rosenes and Paton, and in the case of Mr McCulloch, cross-examination of Mr De Santo by the defence relating to whether others in the Drug Squad would be charged.²¹⁴

²⁰⁸ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 16, VPL.0005.0254.0213 @.0228.

²⁰⁹ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 16, VPL.0005.0254.0213 @.0228.

²¹⁰ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 16, VPL.0005.0254.0213 @.0228.

²¹¹ Transcript of Ms Christine Nixon, 18 December 2019, 11588, RC_MPL_18Dec19_provisional

²¹² Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 17, VPL.0005.0254.0213 @.0229.

²¹³ Transcript of Mr Peter De Santo, 10 May 2019, 1501, 1531-1532, TRN.2019.05.10.01.P.

²¹⁴ Exhibit RC0273 Ms Nicola Gobbo court book, 23-24 January 2002, 10-12, MIN.0001.0009.0001 @.0010-0012, 18 February 2002, 7, MIN.0001.0009.0002 @.0007.

- 179.2. Mr De Santo made a diary entry of contact with Ms Gobbo, who was seeking disclosure of such material, on 26 March 2002.²¹⁵
- 179.3. Ms Gobbo made reference in her court book to a conversation with Mr DeSanto, which was also referred to in a memorandum written by her to senior counsel subject 'Tony Mokbel: Bail application' dated 28 March 2002. It appears they had a frank discussion about Mr De Santo's investigations, including about a Detective Sergeant Martin Allison being under investigation. Ms Gobbo recorded that whilst he did not directly state it to be so, it was clear that Mr Strawhorn was also under investigation.²¹⁶ Mr Allison had previously been involved in executing the search warrant on Ms Gobbo's premises in 1995.
- 179.4. Mr De Santo made a diary entry of speaking to Ms Gobbo about Mr Allison and Mr Strawhorn on 26 April 2002.²¹⁷
- 179.5. In an IR related to Operation Kayak dated 13 May 2002 filed by Police Officer 1, a former Drug Squad member who remained at the MDID, it was indicated that:²¹⁸
- Ms Gobbo had attended at the MDID on 9 May 2002 to listen to recordings related to the CDPP prosecution of Mr Tony Mokbel
 - Police Officer 1 asked Ms Gobbo, at the request of Mr Allison, why she'd sought a meeting with Mr Strawhorn which did not eventuate
 - Ms Gobbo told Police Officer 1 the meeting was called at the request of Mr Tony Mokbel in order to speak with Mr Strawhorn about the pressure being applied to Mr Tony Mokbel by Mr De Santo during visits to the prison
 - Mr Mokbel had requested that she not attend the meeting alone, so she informed Mr Strawhorn that her instructing solicitor, Mr Jim Valos would also attend the meeting
 - Mr Strawhorn then told her that he would bring Mr Allison to the meeting
 - the proposed attendance by Mr Allison was not accepted and the meeting did not take place
 - Ms Gobbo further stated that she could not tell Mr Tony Mokbel about her professional relationship with Mr Strawhorn in relation to 'their [REDACTED]' of a client of hers (for whom she was still then acting).
- 179.6. In Ms Gobbo's court book on 13 May 2002 she appears to record a conference with Mr Tony Mokbel in which they discussed, amongst other matters, contact with Mr McCulloch; members of Victoria

²¹⁵ Exhibit RC0097 Statement of Mr Peter De Santo, 7 May 2019, 5, VPL.0014.0026.0001 @.0005.

²¹⁶ Exhibit RC0273 Ms Nicola Gobbo court book, 27 March 2002, 20, MIN.0001.0009.0003 @.0020; Exhibit RC1738 Memorandum from Ms Nicola Gobbo to Mr Robert Redlich QC, 28 March 2002, MIN.0001.0012.0345.

²¹⁷ Exhibit RC0097 Statement of Mr Peter De Santo, 7 May 2019, 5, VPL.0014.0026.0001 @.0005.

²¹⁸ Exhibit RC0283 Information Report, 13 May 2002, VPL.0100.0241.0001.

Police having to give evidence; the lack of credibility of those members who have given evidence; the DPP being 'terrified of repercussions down the track'; and issuing a subpoena for Mr De Santo in relation to the Commonwealth DPP committal (Operation Plutonium).²¹⁹

- 179.7. In Ms Gobbo's court book on 14 May 2002 there is reference to Mr McCulloch and a phone number, pseudoephedrine, Wood Royal Commission, De Santo and Wayne (the first name of Mr Strawhorn).²²⁰
- 179.8. Mr De Santo's diary included various contacts with Ms Gobbo including, on 17 May 2002 a meeting with her and Mr Con Heliotis QC, who were representing Mr Tony Mokbel, where Ms Gobbo indicated that Mr Strawhorn continued to pursue her for a private meeting and that he appeared more concerned about ESD investigations than the prosecution of Mr Tony Mokbel.²²¹
- 179.9. In Ms Gobbo's court book on 29 May 2002 she referred to various police and others, writing to the DPP indicating police officers were corrupt, and having instructions to 'fight and cause mayhem'.²²²
- 179.10. In Ms Gobbo's court book on 31 May 2002 she recorded a court hearing in relation to Mr Tony Mokbel.²²³
180. It is of note that Mr McKinnon gave evidence to the OPI that on 31 May 2002 he sent a fax to Ms Nixon after being contacted by Mr Milte, which stated, amongst other matters:

*The advice is that it seems reasonable to assume that there is an orchestrated exercise underway to stymie a number of current and pending prosecutions of major crime figures. In the circumstances, I thought that you ought to be apprised of this side of the picture, so that issues surrounding what could be occurring might be properly examined and that people who might be driving a Royal Commission agenda may have their motives tested. There is always a possibility where less experienced police see potential advancement by taking on a 'crusader' approach, that serious harm can be done to the institution and shake public confidence.*²²⁴

181. Ms Nixon confirmed her evidence to the OPI, that she did not recall receiving this fax.²²⁵
182. On 30 June 2002, Ms Nixon received an interim report from the Ceja Taskforce which indicated that Mr Strawhorn had been involved in criminality during his time at the Drug Squad. Ms Nixon said that once she understood that Mr Lambert and Mr Strawhorn were conducting themselves inappropriately, she 'quickly moved to shut down' the Operation. On 12 July 2002, she told Mr Lambert that Operation Clarendon was to cease and any

²¹⁹ Exhibit RC0273 Ms Nicola Gobbo court book, 13 May 2002, 4-5, MIN.0001.0009.0006 @.0004-.0005.

²²⁰ Exhibit RC0273 Ms Nicola Gobbo court book, 14 May 2002, 8 MIN.0001.0009.0006 @.0008.

²²¹ Exhibit RC0097 Statement of Mr Peter De Santo, 7 May 2019, 8, VPL.0014.0026.0001 @.0008.

²²² Exhibit RC0273 Ms Nicola Gobbo court book, 29 May 2002, 24 MIN.0001.0009.0006 @.0024.

²²³ Exhibit RC0273 Ms Nicola Gobbo court book, 31 May 2002, 28 MIN.0001.0009.0006 @.0028.

²²⁴ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 17-18, VPL.0005.0254.0213 @.0229-.0230.

²²⁵ Transcript of Ms Christine Nixon, 18 December 2019, 11589, RC_MPI_18Dec19_provisional.

information was to be handed over to Taskforce Lorcha. She instructed that any further information received from Mr Milte was to be provided to the Crime Department.²²⁶

183. On 17 March 2003, Mr Strawhorn was suspended from duties and charged with a number of serious drug offences. In November 2006, he was found guilty of trafficking pseudoephedrine and sentenced to seven years imprisonment.²²⁷
184. Operation Lorcha referred Mr Milte for investigation in relation to his inappropriate relationships with members of Victoria Police and the Australian Federal Police (AFP). He was prosecuted in 2005 and again in 2006 for his involvement in the unlawfully accessing of, and disclosure of, information from the Victoria Police Law Enforcement Assistance Program (LEAP) database.²²⁸
185. The OPI Report into Operation Clarendon concluded that Operation Clarendon, on its face, was engineered by Mr Milte, Mr Lambert and Mr Strawhorn to further their own interests, although Mr Lambert denied this. In turn, Mr McKinnon was used by Mr Milte because of his connection to Ms Nixon.²²⁹
186. Ms Nixon noted the criticism of her in the report. She said she learned from her experience in this matter that the Chief Commissioner of Police should not be personally involved in operational matters.²³⁰
187. The OPI Report into Operation Clarendon made several remarks in relation to Victoria Police's informer management policy. It specifically noted that Victoria Police had been slow to identify and rectify the 'deficiencies' that had been identified in the Purton Review. It noted further: ²³¹

Although the events that gave rise to this investigation have now passed into history, an analysis of Operation Clarendon provides an important reminder of the need for police to be ever vigilant when approached by manipulative individuals, such as Mr Milte, 'bearing gifts' i.e. purporting to be able to provide high level assistance for no reward. Such individuals may present as 'concerned citizens', well credentialed and apparently respectable; yet their real mission is to 'woo' police for the purposes of obtaining or trading information. Police have access to information that is extremely valuable to certain sectors of the community, be it for criminal purposes, commercial interests or newsworthiness. Police are aware of the risks in dealing with people who have a criminal record and understand the importance of registering them as informers or human sources. The outwardly respectable manipulator presents dangers that are less apparent, but just as real. As this report

²²⁶ Transcript of Ms Christine Nixon, 18 December 2019, 11587-11589, RC_MPI_18Dec19_provisional

²²⁷ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 19, VPL.0005.0254.0213 @.0231.

²²⁸ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 20, VPL.0005.0254.0213 @.0232; Transcript of Ms Christine Nixon, 18 December 2019, 11590, RC_MPI_18Dec19_provisional.

²²⁹ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 23, VPL.0005.0254.0213 @.0235.

²³⁰ Transcript of Ms Christine Nixon, 18 December 2019, 11591, RC_MPI_18Dec19_provisional.

²³¹ Exhibit RC0922 Office of Police Integrity Report on investigation into Operation Clarendon, June 2008, 23, VPL.0005.0254.0213 @.0235.

demonstrates police must guard against allowing (even by inadvertence) outsiders to obtain access to operational resources under any guise.

188. Such issues would have been apparent to Ms Nixon and others within Victoria Police upon the closing down of Operation Clarendon in July 2002, then as the issue progressed in the years thereafter.
189. In the course of the OPI own motion investigation into Operation Clarendon Ms Nixon was interviewed by Mr Graham Ashton, Deputy Director of the OPI in April 2005. The OPI's report was tabled in 2008.²³²
190. Ms Nixon gave evidence about the commissioning of work to look at the best mechanisms to deal with human sources, subsequent to the disbanding of Operation Clarendon. She was asked whether there was discussion, given the very high risk to the organisation involved in human source management, of the fact that she had been misled and the need to be on guard.

[T]hey certainly understood that I had got myself in a situation which I shouldn't have and certainly the...the leadership team of Victoria Police were very much aware of that and the impetus for attempting to reform the systems was very much driven by me and Simon Overland and others to make sure we try and develop a system where that kind of thing didn't happen again.²³³

Overland Awareness of Clarendon Issues at time of Gobbo Registration

191. Assistant Commissioner, Crime, Mr Simon Overland was aware of the Operation Clarendon issues at the time of Ms Gobbo's registration.
192. On 22 September 2005, he recorded in his diary speaking with Inspector Brett Curran about the 'OPI report into Op Clarendon'.²³⁴ Mr Curran was the Deputy Chief of Staff to Ms Nixon and Government Liaison for Ms Nixon.²³⁵
193. On 26 September 2005, Mr Overland recorded a further meeting with Mr Curran about a scheduled meeting with the OPI that afternoon to discuss the Operation Clarendon Report.²³⁶ Mr Overland attended that meeting with Mr Greg Carrol and Ms Vanessa Twigg at the OPI in relation to the report. He noted in his diary that he provided feedback verbally and via annotated reports, and diarised further:

General comments – out of context – discussed this done because of sub judice and operational sensitivities. Not balanced for same reasons. Discussed considerations in releasing report. OPI to

²³² Transcript of Ms Christine Nixon, 18 December 2019, 11592, RC_MPI_18Dec19_provisional.

²³³ Transcript of Ms Christine Nixon, 18 December 2019, 11593, RC_MPI_18Dec19_provisional.

²³⁴ Exhibit RC0984 Mr Simon Overland diary, 22 September 2005, 505, RCMPI.0133.0001.0001 @.0505.

²³⁵ Exhibit RC1400 Statement of Commander Brett Curran, 28 March 2019, 1 [3] VPL.0014.0011.0001 @.0001.

²³⁶ Exhibit RC0984 Mr Simon Overland diary, 26 September 2005, 511, RCMPI.0133.0001.0001 @.0511.

*consider response & provide further drafts for consultation + discuss timing of any release.*²³⁷

194. Notably, throughout this period, and in the months before it, Mr Overland had become aware of Ms Gobbo's willingness to assist investigators, and that his investigators were proposing to, and had registered Ms Gobbo as a human source:
- On 6 June 2005, he was informed at a Purana Taskforce weekly update meeting by way of written update that 'Defence barrister Nicola Gobbo attempted to make contact with Operation Purana members offering information. Her motives for this are yet to be established',²³⁸ and verbally that Mr Bateson was to meet with her.²³⁹
 - On 12 September 2005, at a Purana Taskforce weekly update meeting he was told by Mr O'Brien about the proposed use of Ms Gobbo as a human source in relation to Operation Quills, an investigation relating to Mr Tony Mokbel.²⁴⁰
 - On 19 September 2005, at a Purana Taskforce weekly update meeting, he noted having been given information about a person 'cooking' for Mr Tony Mokbel and the need to collate information and discuss the future direction of the Mokbel investigation the following week.²⁴¹ The information had come from Ms Gobbo, which must have been apparent to him.
 - On 26 September 2005, between his meeting with Mr Curran and his meeting with the OPI about the Operation Clarendon Report, he attended a Purana Taskforce weekly update meeting in which there was discussion about information supplied by Ms Gobbo, whom he recorded as having the registered number '3838'. This included reference to investigations taking place involving Mr Tony Mokbel, seemingly in deciding the future direction of investigations relating to Mr Tony Mokbel as had been indicated the previous week. Mr Overland noted in his diary the need to manage Ms Gobbo as a source very carefully, and that Mr Purton was to be fully involved.²⁴²
 - On 27 September 2005, he met with Mr Purton who conveyed to him the information supplied by Ms Gobbo as a result of her debriefing by the Source Development Unit (SDU). This information included that Mr Cooper may 'roll over', Mr Tony Mokbel was worried about Mr Bickley and the potential for the [REDACTED] [REDACTED] Mr Tony Mokbel. They discussed the development of the investigation strategy and the need to ensure that Ms Gobbo was not compromised under any circumstances.²⁴³

²³⁷ Exhibit RC0984 Mr Simon Overland diary, 26 September 2005, 512, RCMP1.0133.0001.0001 @.0512.

²³⁸ Exhibit RC0775 Purana Taskforce Update, 6 June 2005, VPL.0100.0012.0112 .

²³⁹ Exhibit RC0109 Mr Terry Purton diary, 6 June 2005, 3, VPL.0005.0067.0005 @.0007.

²⁴⁰ Exhibit RC0933 Mr James (Jim) O'Brien diary, 12 September 2005, 94, RCMP1.0053.0001.0003 @.0094.

²⁴¹ Exhibit RC0984 Mr Simon Overland diary, 19 September 2005, 502, RCMP1.0133.0001.0001 @.0502.

²⁴² Exhibit RC0984 Mr Simon Overland diary, 26 September 2005, 511-512, RCMP1.0133.0001.0001 @.0511-.0512.

²⁴³ Exhibit RC0984 Mr Simon Overland diary, 27 September 2005, 513-514, RCMP1.0133.0001.0001 @.0513-.0514.

195. On 29 September 2005, Mr Overland met with Ms Nixon and discussed a number of matters, including that she was to receive a number of Operation Lorcha briefs which she would consider, and they would discuss further. One of these briefs was 'Milte re Brouwer'. Mr Brouwer was the Director of the OPI. Beneath his entry, Mr Overland noted, 'Purana – re 3838'.²⁴⁴ This notation indicates that Mr Overland told Ms Nixon about the existence of a significant human source.
196. The question arose in the course of the Commission as to whether Mr Overland had told Ms Nixon that 3838 was Ms Gobbo, or a criminal defence barrister.
197. When Mr Overland first gave evidence on this matter, he told the Commission he did not have a recollection of informing Ms Nixon about the use of Ms Gobbo as a human source and that he did not keep a diary or day book.²⁴⁵
198. Following the discovery of his diaries, Mr Overland told the Commission:
- it looked from his note of 29 September 2005 that the meeting had been scheduled to discuss the Operation Lorcha briefs, and his belief was that he then spoke to Ms Nixon about the fact that Ms Gobbo was registered as a human source
 - he did not have a specific recollection, but it seemed logical based upon the exceptional circumstances of conveying such information about a human source to Ms Nixon, that he would have informed her also that the human source was a barrister, Ms Gobbo
 - he thought it unlikely he would have only conveyed to Ms Nixon they had registered a human source who might significantly assist the Purana Taskforce, which would need an additional resource
 - he must have at least told her the name of the person as he felt she needed to know due to the unusual circumstances of having a barrister who was providing information to Victoria Police
 - he quite possibly told her that the Purana Taskforce would use Ms Gobbo's information to bring down the Mokbel cartel
 - he was certain he did not provide information about Ms Gobbo acting for Mr Tony Mokbel.²⁴⁶
199. Ms Nixon told the Commission that she never became aware that Ms Gobbo was a human source when she was Chief Commissioner. She said that even when the 'Lawyer X' story broke in the media in 2014, she thought it might have been a female lawyer other than Ms Gobbo.²⁴⁷

²⁴⁴ Exhibit RC0984 Mr Simon Overland diary, 29 September 2005, 515, RCMP1.0133.0001.0001 @.0515.

²⁴⁵ Transcript of Mr Simon Overland, 16 December 2019, 11318-11320, RC_MPI_16Dec19_provisional.

²⁴⁶ Transcript of Mr Simon Overland, 21 January 2020, 12014-12017, TRN.2020.01.21.01.P.

²⁴⁷ Transcript of Ms Christine Nixon, 18 December 2020, 11609-11610, RC_MPI_18Dec19_provisional

200. **On the evidence, it is open to the Commissioner to find that Mr Overland did not inform Ms Nixon of the identity of the informer 3838 in their meeting on 29 September 2005. That is so because:**
- 200.1. **in meetings subsequent to this meeting, Mr Overland did not inform Ms Nixon as to the significant organisation risks faced by Victoria Police relating to Ms Gobbo's use. That is consistent with his not informing her about her role as an informer at this early stage**
- 200.2. **Mr Overland did not inform Ms Nixon about the risk associated with Ms Gobbo being a source when Ms Gobbo's car was set alight following ongoing death threats to her life, and again upon his receipt of the SWOT analysis** ²⁴⁸
- 200.3. **if Ms Nixon had been told about the proposal to use a criminal barrister in these circumstances, chastened as she was by her experience with Mr Milte, it is likely that she would not have permitted it, or at the very least would have taken steps to determine whether or not it was appropriate, such as obtaining legal advice.**

The Ceja Taskforce

201. As a result of the Purton Review, the Ceja Taskforce was established in January 2002. It was a part of the ESD, and had the following terms of reference:²⁴⁹
- investigate the unauthorised purchase of chemicals by member(s) of Victoria Police or their delegates via the Victoria Police Drug Squad, Chemical Diversion Desk
 - investigate the unauthorised delivery or supply of chemicals by member(s) of the Victoria Police or their delegates via the Victoria Police Drug Squad, Controlled Chemical Deliveries Program
 - investigate allegations of theft, evidence fabrication and drug use by member(s) of the Victoria Police Drug Squad as assessed in consultation with the Commander and Assistant Commissioner of the Ethical Standards Department
 - to liaise with the Ombudsman, later the OPI, and to address issues which had been raised by the Ombudsman with the Deputy Commissioner (Policy and Standards) by letter dated 5 December 2001.

²⁴⁸ Transcript of Mr Simon Overland, 19 December 2019, 11796-11797, 11860-11863, TRN.2019.12.19.01.P

²⁴⁹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 25, VPL.0015.0002.0033 @.0057

202. In November 2000, Mr De Santo had been promoted to Detective Inspector of the ESD. He became involved in Operation HEMI and then the Ceja Taskforce.²⁵⁰
203. In April 2002, Mr Dannye Moloney became the Superintendent of the Ceja Taskforce. In 2003, he was promoted to Commander, Intelligence and Covert Support Department (I&CS), however given the work required by the Ceja Taskforce, he did not take up this role until 11 July 2005. Even then he retained command of the Ceja Taskforce until December 2006.²⁵¹
204. The Ceja Taskforce was initially requested to provide a report by 30 June 2002.²⁵² At that time, an interim report was provided to Ms Nixon which identified more than 100 corruption allegations, some of which involved Mr Strawhorn (2002 Report).²⁵³ It recommended an increase in staffing and resources to the Ceja Taskforce to fully investigate all terms of reference.²⁵⁴
205. Between 2003 and July 2007, the Ombudsman or the OPI in the final case, published the following reports in relation to the Ceja Taskforce:
- Ceja Taskforce Investigation of Allegations of Drug Related Corruption – First Interim Report, May 2003²⁵⁵
 - Ceja Taskforce Drug Related Corruption – Second Interim Report, June 2004²⁵⁶
 - Ceja Taskforce Drug Related Corruption – Third and Final Report, July 2007.²⁵⁷
206. These reports detailed a number of Ceja investigations and court proceedings against Victoria Police members whose offending had involved the corruption of a human source relationship, including:
- 206.1. On 17 March 2003 Mr Strawhorn had been charged with serious drug offences involving Mr Paton and others, as well as other offences.²⁵⁸ In November 2006, following trial, he was convicted of trafficking pseudoephedrine and sentenced to 7 years' imprisonment with a minimum of 4 years and a \$12,000 pecuniary penalty order.²⁵⁹

²⁵⁰ Exhibit RC0097 Statement of Mr Peter De Santo, 7 May 2019, 1 [4], VPL.0014.0026.0001 @.0001

²⁵¹ Exhibit RC1325A Statement of Mr Dannye Moloney, 28 November 2019, 2-3 [7-8], VPL.0014.0070.0025 @.0026-.0027; Transcript of Mr Dannye Moloney, 20 February 2020, 14540, 14541, TRN.2020.02.20.01.P.

²⁵² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 25, VPL.0015.0002.0033 @.0057.

²⁵³ Exhibit RC1780 Ceja Taskforce Interim Investigation Report, 30 June 2002, VPL.0100.0058.1382

²⁵⁴ Exhibit RC1780 Ceja Taskforce Interim Investigation Report, 30 June 2002, 41, VPL.0100.0058.1382 @.1422.

²⁵⁵ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 25, VPL.0015.0002.0033 @.0057.

²⁵⁶ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 52, June 2004, VPL.0015.0002.0001.

²⁵⁷ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 53, VPL.0015.0002.0066.

²⁵⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 30, VPL.0015.0002.0033 @.0062.

²⁵⁹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 53, 31, VPL.0015.0002.0066 @.0096.

206.2. In May 2003 Detective Senior Constable Ian Ferguson, Detective Sergeant Stephen Cox, and Detective Senior Constable Glenn Sadler who had worked on the same team at the Drug Squad were arrested and charged with conspiring with an informer to traffic heroin and money laundering offences.²⁶⁰ In November 2006, following trials:

- Mr Ferguson was convicted of conspiracy to traffic heroin and money launder and was sentenced to 12 years imprisonment with a non-parole period of 8 years, was ordered to pay a \$999,500 pecuniary penalty and ordered to forfeit property and real estate.²⁶¹
- Mr Cox was convicted of conspiracy to traffic heroin and sentenced to 7 years imprisonment with a non-parole period of 4 years and was ordered to pay a \$22,000 pecuniary penalty.²⁶²
- Mr Sadler was convicted of conspiracy to traffic heroin and was sentenced to 10 years imprisonment with a non-parole period of 6 years and was ordered to pay a \$71,000 pecuniary penalty and to forfeit a motor vehicle.²⁶³

Gobbo Contact with ESD

207. As pointed out above, from around 2002, Ms Gobbo had interactions with investigators attached to the ESD, primarily with Mr De Santo, in the course of her acting for Mr Tony Mokbel.²⁶⁴

208. As part of his HEMI and Ceja Taskforce investigations, Mr De Santo had been investigating various police officers who had been involved in investigations of Mr Tony Mokbel as part of Operation Kayak.²⁶⁵ It was alleged that those officers had engaged in corruption, such as drug trafficking.²⁶⁶ It had been public knowledge that some members of the Drug Squad such as Messrs Paton and Rosenes had been charged. Under cross-examination during a bail application of Mr McCulloch, Mr De Santo revealed, without naming them, that other members were also under investigation. Mr De Santo said that Ms Gobbo 'saw that Kayak Taskforce had charged Mr Tony Mokbel and others, that there was corruption within Kayak; that if [he] proved that corruption by way of conviction she was able to leverage off those convictions in order to taint the evidence that they were going to give in the trials against Mr Tony Mokbel and others.'²⁶⁷

²⁶⁰ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 31, VPL.0015.0002.0033 @.0063

[112]; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 53, 31, VPL.0015.0002.0066 @.0096.

²⁶² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 53, 31, VPL.0015.0002.0066 @.0096.

²⁶³ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 53, 31, VPL.0015.0002.0066 @.0096.

²⁶⁴ Transcript of Mr Peter De Santo, 9 May 2019, 1495, TRN.2019.05.09.01.C.

²⁶⁵ Transcript of Mr Peter De Santo, 10 May 2019, 1543, TRN.2019.05.10.01.P.

²⁶⁶ Transcript of Mr Peter De Santo, 10 May 2019, 1543, TRN.2019.05.10.01.P.

²⁶⁷ Transcript of Mr Peter De Santo, 10 May 2019, 1532, TRN.2019.05.10.01.P.

209. It was in that context Mr De Santo initially came to have dealings with Ms Gobbo.²⁶⁸ Various aspects of this communication is described at paragraph 179 above.
210. It is apparent from further diary notes made by Mr De Santo, that Ms Gobbo provided him with information not strictly related to Mr Mokbel's proceeding, for example:
- 210.1. On 17 July 2002 Ms Gobbo reported allegations of theft by two Drug Squad members.²⁶⁹
- 210.2. On 25 October and 8 November 2002 Ms Gobbo spoke with him in relation to issues associated with the case of her client, Mr Shane Pidoto. Mr Pidoto had been charged with drug offences by Mr Miechel, and there were issues regarding bail. Mr De Santo's diary indicates he commented at the time that Mr Miechel was the common denominator regarding a number of briefs.²⁷⁰
211. In late September 2003, ESD was seeking the co-operation of Mr Terrence Hodson following the Dublin Street burglary, which had been committed by Mr Hodson with Mr Miechel. Mr De Santo, being aware that Ms Gobbo had previously successfully represented his son, Mr Andrew Hodson on a bail application [REDACTED], approached Ms Gobbo about making contact with Mr Hodson.²⁷¹ These events, and Ms Gobbo's involvement in them, are described further at Chapter 6 (Gangland Wars and the Establishment of Purana).
212. It is of note that Ms Gobbo told the Commission that amongst the police officers who she regarded as being able to elicit confidential information from her that she 'shouldn't be giving', were Mr Strawhorn and Mr De Santo.²⁷²

²⁶⁸ Transcript of Mr Peter De Santo, 10 May 2019, 1501, 1543, TRN.2019.05.10.01.P.

²⁶⁹ Exhibit RC0101 Mr Peter De Santo diary, 17 July 2002, 4, VPL.0005.0073.0011 @.0014.

²⁷⁰ Exhibit RC0101 Mr Peter De Santo diary, 25 October 2002, 5, VPL.0005.0073.0011 @.0015; Exhibit RC0101 Mr Peter De Santo diary, 8 November 2002, 6, VPL.0005.0073.0011 @.0016.

²⁷¹ Exhibit RC0097 Statement of Mr Peter De Santo, 7 May 2019, 1 [4], VPL.0014.0026.0001 @.0001.

²⁷² Exhibit RC0789 Transcript of conversation between Nicola Gobbo and the Commission, 13 June 2019, 45, Ms Gobbo and RCMP 13.06.2019.

CHAPTER 3 – 2003 TO 2005 – HUMAN SOURCE MANAGEMENT REFORM & SUBSEQUENT INSPECTOR FAILINGS

Background

213. As referred to in Chapter 2, following from the experiences of corruption within the Drug Squad and the recommendations of the Purton Review, came reform of human source management within Victoria Police. This occurred broadly when in September 2003, the existing Chief Commissioner Instruction (VPM Instruction 111-3 Informers) issued on 11 July 2003²⁷³ was updated. This Instruction applied force wide, and also structurally, with the development of the Dedicated Source Unit (DSU), later renamed the Source Development Unit (SDU).
214. Similarly, over time there was a change in language from the use of the word 'Informer' to that of 'Human Source'. These changes had flow on effects to the divisions, such as the 'Informer Management Unit' which became the 'Human Source Management Unit', and responsibilities or titles, such as the 'Local Informer Registrar' which became the 'Local Source Registrar'.

2003 – Chief Commissioner Issues New Informer Management Policy

215. On 22 September 2003, a Chief Commissioner's Instruction (CCI 7/03) was issued.²⁷⁴ It outlined a new Informer Management Policy. This was the first comprehensive policy by Victoria Police which detailed all aspects of human source management, including registration and day-to-day interaction. It was updated on 22 September 2004 as CCI 6/04 (the Policy).²⁷⁵ That update contained few material amendments.
216. The Policy was said to have adopted interstate and overseas best practice and implemented recommendations from a review of informer management procedures, in addition to implementing recommendations of the Purton Review.²⁷⁶
217. The Policy applied force wide, with the exception of informers used by Crime Stoppers and the ESD.²⁷⁷

²⁷³ Exhibit RC1781 Chief Commissioner's Instruction (VPM Instruction 111-3 Informers), 11 July 2003, VPL.0002.0001.1660.

²⁷⁴ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, VPL.0002.0001.2196.

²⁷⁵ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 35, VPL.0002.0001.2214.

²⁷⁶ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 1 [2], VPL.0002.0001.2196

²⁷⁷ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, tendered 27 March 2019, Annexure 34, 3 [8], VPL.0002.0001.2196 @.2198.

218. On the same day, the front page of the Police Gazette announced 'New policy on registering and managing informers'.²⁷⁸ The head of the Intelligence and Covert Support Department (I&CS), Acting Commander Ian Thomas, was quoted in the Gazette:

The policy gives us a more efficient way of informer management, which was needed particularly in view of the criticism earlier this year by the Police Ombudsman following the Drug Squad Review.

Once members get used to the policy and it is working well, it should cut out any duplication of informers and leave us much less exposed to corruption.

*Best of all, it will give us better intelligence. We'll be able to search the database to see whether an informer in one area can assist an investigation in another. This will be handled confidentially and sensitively and in consultation with the handler. If the handler tells us the informer won't co-operate, then we won't take it any further.*²⁷⁹

Intention behind New Policy

219. The Policy stated that it was intended to:²⁸⁰
- ensure greater transparency and security at all stages
 - give absolute priority to the duty of care for members and informers
 - provide a clearly defined framework to assist members in managing informers
 - develop members' confidence and professionalism in recruiting and handling informers
 - address the potential for interagency co-operation to maximise informers for investigations.²⁸¹
220. The Policy noted that informers should be used for the purposes of criminal investigations 'in a manner in which the integrity of informers, police members and Victoria Police is protected.'²⁸²

Definition of Informer

221. Under the Policy, an informer was defined as 'an identified person who provides information to Victoria Police which if acted upon could lead to an arrest or a course of action against persons engaged in criminal activity.'²⁸³

²⁷⁸ Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers' 22 September 2003, 1, VPL.0100.0279.0205 @.0211.

²⁷⁹ Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers' 22 September 2003, VPL.0100.0279.0205.

²⁸⁰ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 1 [3]-[4], VPL.0002.0001.2196.

²⁸¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 36, VPL.0002.0001.2232.

²⁸² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 1 [5], VPL.0002.0001.2196.

²⁸³ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 2 [7], VPL.0002.0001.2196 @.2197.

222. The Police Gazette article quoted Detective Inspector Doug Cowlshaw, who at the time headed the newly established IMU:

*Not all informers by definition require registration...victims of crime, community minded citizens or person[s] who supply a statement to police as part of routine enquiries into an offence...nor do professional contacts, who may provide ongoing information for no benefit or reward.*²⁸⁴

223. He said further that if there were 'any doubts as to the requirements of registration' to contact the IMU, which was:

*...available to assist all members with registration considerations, risk assessments and operational assistance with individual informers. Members are encouraged to seek assistance with any query and the detective sergeants attached to the unit are available at all hours for informer related assistance.*²⁸⁵

Roles and Responsibilities

224. The policy outlined the roles and responsibilities of handlers, controllers and other personnel including the Officer in Charge (OIC).²⁸⁶

Handlers, Co-handlers and Controllers

225. The policy provided that handlers had day-to-day responsibility for managing an informer. This included managing the informer relationship, reporting all contact with an informer, briefing the controller on and otherwise documenting any incidents/developments, providing quarterly reports (including an assessment on the status of the informer) and evaluating information supplied by an informer in the first instance. Co-handlers could also assume the role of a handler and could provide additional assistance to a handler, for example by attending meetings between the handler and an informer.²⁸⁷

226. Controllers, who were required to hold [REDACTED], had direct supervision of a handler. They were required to:

- actively supervise the handler-informer relationship
- attend meetings with informers when appropriate
- ensure completion of the Acknowledgement of Responsibilities (AOR)²⁸⁸
- ensure effective maintenance of the Informer Management File (IMF)

²⁸⁴ Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers', 22 September 2003, 7, VPL.0100.0279.0205 @.0211.

²⁸⁵ Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers', 22 September 2003, 8, VPL.0100.0279.0205 @.0212.

²⁸⁶ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 2 [7], 4-6 [12]-[18], VPL.0002.0001.2196 @.2197, .2199 -.2201.

²⁸⁷ Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers', 22 September 2003, 7, 29, 32, VPL.0100.0279.0205 @.0211, .0233, .0236.

²⁸⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 4-5 [14], VPL.0002.0001.2196 @.2199-.2200.

- provide advice and guidance to the handler regarding informer management issues
- provide advice regarding requests for informer assistance received by the Local Informer Registrar (LIR).²⁸⁹

227. Controllers also had some specific oversight functions, including to conduct a monthly review of handler/informer relationships, ensure IRs were numbered and attached to the IMF²⁹⁰ and to review IRs.²⁹¹

Officer in Charge

228. Under the policy, the OIC was the immediate supervisor of the controller and was responsible for supervising both the handler and controller.²⁹² Their role included providing advice and guidance to the handler and controller, evaluating information received to be forwarded to the LIR and to act as a contact point for communication between the LIR and the handler/controller. They also had a number of responsibilities in relation to registering an informer, as outlined below.

229. At the time Ms Gobbo was registered in 2005, the Detective Superintendent of State Intelligence had responsibility for both the DSU and the IMU.²⁹³ The DSU, which is discussed in more detail below, was relatively new at that time. So too were the procedures that had been put in place for the registration of sources under the Chief Commissioner's Instruction.

Local Informer Registrars & Central Informer Registrar

230. The LIRs were responsible for the maintenance, management and auditing of the local informer registration system. Their responsibilities included managing a Local Informer Registry, holding the Local Informer Management File (LIMF), allocating controller and handler functions to appropriate staff, providing advice and guidance to members regarding the policy, [REDACTED]²⁹⁴ and recording and responding to notifications regarding duplicate registrations.

231. The role of LIR was performed by Divisional Superintendents – Regions and Crime Department, and/or Superintendents in charge of other areas. This role extended the role performed by the regional or district Registrars under previous policies.²⁹⁵

232. The Central Informer Registrar (CIR) was responsible for the management of the IMU and the effective implementation of the Informer Management

²⁸⁹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 5 [16], VPL.0002.0001.2196 @.2200.

²⁹⁰ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 4-5 [14], VPL.0002.0001.2196 @.2199-.2200.

²⁹¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 4-5 [14], VPL.0002.0001.2196 @.2199-.2200.

²⁹² NB under the policy, both the controller and OIC were responsible for supervising the handler. It is not clear how this worked in practice and whether the OIC was expected to actively supervise the handler. Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 3 [7], VPL.0002.0001.2196 @.2198.

²⁹³ Exhibit RC1259B Statement of Mr Ian Thomas, 18 September 2019, 4 [11], VPL.0014.0056.0001.

²⁹⁴ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 5 [16], VPL.0002.0001.2196 @.2200.

²⁹⁵ Exhibit RC1804 Victoria Police Manual, Policy Rules, first issue 22 February 2010, 6, VGSO.5000.0018.2217 @.2222.

Policy, including to provide advice and guidance to members in relation to the management of informers and the policy.²⁹⁶

233. The CIR was the Detective Superintendent, State Intelligence Division (SID), Intelligence & Covert Support.
234. The CIR at the time of Ms Gobbo's registration was Mr Thomas.²⁹⁷ At the time, he also held the position of LIR as Ms Gobbo was registered by the SDU. That was because he was also the Superintendent in charge of that unit at the time. This is further discussed below.

Recruitment and Registration of Informers under the Policy

Reason and Requirement for Registration

235. The initial process for registration of an informer recognised the significant risks associated with the use of informers:

*Informers represent a valuable resource for attaining information on criminal activity. However, the recruitment of informers also represents a risk, which must be identified and monitored with a view to effective management. A professional and transparent approach to the recruitment of informers can assist members in the penetration of criminal networks and at the same time safeguard members' integrity.*²⁹⁸

236. According to the policy, registration of the informer served a number of purposes, including:
- protecting both the informer and the handler
 - enabling organisation-wide utilisation of informer-sourced information
 - preventing duplication of registration, thereby reducing the risk of informers manipulating police members
 - clearly defining the parameters of the relationship between the handler and the informer
 - providing transparency for auditing purposes.²⁹⁹
237. The policy required an individual to be registered as an informer where they:
- made a practice of providing information

²⁹⁶ Exhibit RC0821 Informer Management Policy, undated, 4, VPL.0100.0279.0205 @.0224.

²⁹⁷ See, eg, Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers', 22 September 2003, 1, VPL.0100.0279.0205 @.0211.

²⁹⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 6-7 [20], VPL.0002.0001.2196 @.2201-.2202. For the risks associated with the initial process of registering and handling informers, see further Exhibit RC0821 Informer Management Policy, undated, 1, VPL.0100.0279.0205 @.0221; Exhibit RC0821 Crime Department Memo from Assistant Commissioner Crime Department to Assistant Commissioner Training Department, 28 November 1988, 1, VPL.0100.0279.0205 @.0218.

²⁹⁹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 8 [25], VPL.0002.0001.2196 @.2203; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 35, 18 [82], VPL.0002.0001.2214 @.2231. See also Exhibit RC0821 Victoria Police Gazette No 19, article titled 'New Policy on Registering and Managing Informers' 22 September 2003, 1, VPL.0100.0279.0205 @.0211.

- received a financial reward
 - required indemnity from prosecution
 - were to receive any benefit or reimbursement
 - presented an organisational/personal risk
 - were to be operationally tasked.³⁰⁰
238. The policy required a member, when assessing that potential informer, to conduct an initial assessment which included information relevant to a number of risks:
- *Risk to Informer – including history, criminal or otherwise, which may lead to risk of compromise.*
 - *Risk to Information – including content, intended use, subsequent dissemination, relevance.*
 - *Risk to Handler(s)/Controller – experience and ability of member to fulfil role, adequate training, personal knowledge relating to informer.*
 - *Risk to Victoria Police – embarrassment to Victoria Police, loss of credibility, exposure of methodology, cost effectiveness.*
 - *Risk to Public – impact on community, harm to public, confidence issues.*³⁰¹
239. An Informer Registration (or Reactivation) Application, including this initial risk assessment would then be submitted to the OIC.
240. The OIC then had a number of responsibilities in relation to the registration of an informer, including:
- assessing the suitability of the informer
 - evaluating identified risks
 - considering potential risks
 - considering risk management strategies
 - ensuring compliance with policy and procedure
 - considering operational priorities
 - considering duty of care issues
 - Ensure all relevant official notebook and or diary entries have been made.³⁰²

³⁰⁰ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 8 [26], VPL.0002.0001.2196 @.2203.

³⁰¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 7 [23], VPL.0002.0001.2196 @.2202.

³⁰² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 8-9 [27], VPL.0002.0001.2196 @.2203-2204.

241. Once the OIC was satisfied that an informer was to be registered, they were then required to deliver the Application, and other documents to the LIR.³⁰³
242. The LIR would undergo a similar process in assessing the suitability and risks of the informer, as well as providing an oversight role in relation to the activities of both the member and OIC.
243. If the application was approved, the LIR had a number of responsibilities including:
- creation of a Local Informer Management File, a file held by the LIR, which, amongst other documents include an activity log and the registration and risk assessment documents
 - authorising the creation of an Informer Management File, a file held by the controller
 - forwarding to the IMU the original registration and risk assessment documents and the AOR form.³⁰⁴
244. The Policy noted that ‘under no circumstances’ was the identity of the informer to be disclosed in the LIMF file.³⁰⁵ It was also noted that care should be taken to avoid associating the identity of the informer with the code in the member’s diary and/or notebook.³⁰⁶
245. The IMU’s role largely related to record keeping, ensuring that the computer-generated code signifying the informer was recorded in the Central Informer Registry, and compiling a record of the registration, called a Central Informer Management File (CIMF).
246. Upon receipt of files, the IMU was to make necessary notations in the Central Informer Registry and to securely store the identity documentation.³⁰⁷

Contacts with Informers

247. The intention of the policy was to provide ‘clearly defined procedures’ to appropriately manage interactions between police members and informers to protect members against allegations of impropriety.³⁰⁸
248. Contacts with informers by handlers were required to be authorised by the controller or the OIC and documented in an ICR, as well as the handler’s diaries/day books.³⁰⁹

³⁰³ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 9 [28], VPL.0002.0001.2196 @.2204.

³⁰⁴ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 10 [33], VPL.0002.0001.2196 @.2205.

³⁰⁵ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 10 [32], VPL.0002.0001.2196 @.2205.

³⁰⁶ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 10 [35], VPL.0002.0001.2196 @.2205.

³⁰⁷ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 13 [51], VPL.0002.0001.2196 @.2208.

³⁰⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 11 [40], VPL.0002.0001.2196 @.2206.

³⁰⁹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 12 [45], VPL.0002.0001.2196 @.2207.

a registered informer. An informer could either be designated as 'inactive' or 'unsuitable'. An informer could be deactivated to the status of 'unsuitable' when the informer was, among other things, an unacceptable high risk to themselves, Victoria Police or the public.³¹⁶

258. The policy further noted that all members involved with the operational management of the informer were able to put forward a recommendation for deactivation. When considering deactivation all risks to Victoria Police, the member, the Informer and the public must be addressed and necessary action developed to minimise that risk.³¹⁷

Audit and Compliance

259. The policy contained audit requirements in order to ensure ongoing compliance with the policy, including:
- the Informer Registration Form containing the true identity of the informer was kept separate from the informer file to allow for compliance audits without the need to know the true identity of the informer
 - a monthly review of the informer relationship and information provided by the informer was to be carried out by the designated controller, ensuring all IRs were attached to the file and any recommendations endorsed on the IMF
 - a quarterly report by the handler detailing all contacts with the informer and an assessment as to the continuance of the registration
 - a quarterly inspection/review of all IMFs by the LIR
 - Regional Assistant Commissioners must ensure all IMFs were subject to a yearly audit by the Regional Audit Team
 - the Commander of the Crime Department must ensure all IMFs were subject to a yearly audit by the Crime Department Audit and Compliance Team
 - the LIR would be responsible for 'procedural, ethical and value for money' audits in respect of active informers for which they have registration responsibility
 - the LIR must conduct an annual audit of informers and deactivate any informers that have been inactive for six months or more.³¹⁸

2003 – Human Source Management Project

Background

260. On 27 July 2003, Victoria Police initiated a project to 'Review and Develop Best Practice Human Source Management Policy' (the Project). The Crime Department had identified the need to develop best practice in the

³¹⁶ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 13-14 [56], VPL.0002.0001.2196 @.2208-.2209.

³¹⁷ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 14 [60], VPL.0002.0001.2196 @.2209.

³¹⁸ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 17 [84], VPL.0002.0001.2196 @.2212.

management of informer handling as a key issue in the development of its five year plan.³¹⁹ Within the Crime Department, the MDID was identified as a major user of human sources in Victoria Police.³²⁰ Eighty percent of MDID investigations were driven by human source intelligence.³²¹

261. Then-Assistant Commissioner, Crime, Mr Overland, commissioned Superintendent Biggin of the MDID, to head the Project. As noted by Mr Moloney in his evidence to the Commission, Mr Biggin had 'extensive experience in covert work and [was] an experienced investigator'.³²²
262. A Human Source Management Project Steering Committee was established to oversee the proposed establishment of the dedicated human source management unit, comprising Mr Overland, Mr Purton, Commander Dannye Moloney and Mr Biggin.³²³
263. Members of the project team included Mr Biggin (MDID), Mr Sandy White [REDACTED], Detective Sergeant Owen (IMU) and Detective Senior Sergeant Cruze, [REDACTED]. Mr Purton was nominated as the Project Director.
264. In his evidence to the Commission, Mr Moloney said that the Steering Committee met at least six times between July and October 2004, prior to the pilot project becoming operational.³²⁴ The Steering Committee also met a number of times after the pilot became operational.³²⁵
265. The Terms of Reference included examining the way in which the Crime Department used human source information at that time, and comparing it

³¹⁹ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 9, VPL.0100.0048.0789 @.0797.

³²⁰ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 9, VPL.0100.0048.0789 @.0797.

³²¹ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 9, VPL.0100.0048.0789 @.0797.

³²² Transcript of Mr Dannye Moloney, 20 February 2020, 14557, RCMP.0159.0001.0007.

³²³ Exhibit RC1325 Statement of Dannye Moloney, 28 November 2019, 6 [32], VPL.0014.0070.0025 @.0030; Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 10, VPL.0100.0048.0789 @.0798.

³²⁴ Exhibit RC1325 Statement of Dannye Moloney, 28 November 2019, 6 [38], VPL.0014.0070.0025 @.0031. See Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 19 November 2004, VPL.0100.0048.1084; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 7 January 2005, VPL.0100.0048.1101; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 28 January 2005, VPL.0100.0048.1143; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 11 February 2005, VPL.0100.0048.1076; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 25 February 2005, VPL.0100.0048.1094; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 18 March 2005, VPL.0100.0048.1082.

³²⁵ Exhibit RC1325 Statement of Dannye Moloney, 28 November 2019, 6 [38], VPL.0014.0070.0025 @.0031. See also Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 19 November 2004, VPL.0100.0048.1084; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 7 January 2005, VPL.0100.0048.1101; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 28 January 2005, VPL.0100.0048.1143; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 11 February 2005, VPL.0100.0048.1076; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 25 February 2005, VPL.0100.0048.1094; Exhibit RC1810 Dedicated Human Source Management Team Pilot Steering Committee Minutes, 18 March 2005, VPL.0100.0048.1082.

both nationally and internationally.³²⁶ The Project was not intended to review the Victoria Police Informer Management Policy in place at the time.³²⁷

Project Findings

266. The Project found that, in comparison with other international and national law enforcement bodies, the use of human sources by Victoria Police was best described as 'primitive'. The identification and recruitment of human sources was conducted on an 'ad hoc' basis.³²⁸
267. It was also said that Victoria Police did not have a philosophy of encouraging the development of any program relating to the use of human sources. There was little training implemented at the time by Victoria Police regarding this topic and what training existed '[did] little more than lead members to believe that human sources are more trouble than they are worth'.³²⁹ The Project noted that the new Victoria Police Informer Management Policy was considered 'so onerous and impractical' that it had 'stifl[ed]' registrations.³³⁰
268. The Project identified that there was no organisational philosophy which encouraged members to identify, recruit and register human sources, and that greater emphasis needed to be placed on an investigator's ability to recruit and manage human sources. It was found that this could be achieved by:
- training
 - identifying that skill in position descriptions for CIU and RRU investigators
 - including that ability as a component of the competency assessment in Performance Enhancement Programs
 - raising awareness of it through presentations by IMU.³³¹

269. [REDACTED]

³²⁶ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 9, VPL.0100.0048.0789 @.0797.

³²⁷ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 10, VPL.0100.0048.0789 @.0798.

³²⁸ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 13, VPL.0100.0048.0789 @.0801.

³²⁹ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 13, VPL.0100.0048.0789 @.0801.

³³⁰ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 14, VPL.0100.0048.0789 @.0802.

³³¹ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 15, VPL.0100.0048.0789 @.0803.

³³² Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 16, VPL.0100.0048.0789 @.0804.

270. [REDACTED]

[REDACTED]

271. Skills or attributes that were identified as being of particular importance included 'specialist occupational skills or knowledge'.³³⁴

Pilot of a Dedicated Source Unit

272. On 27 July 2003, Assistant Commissioner Crime Overland directed Superintendent Biggin to initiate a project to 'Review and Develop Best Practice Human Source Management Policy'.³³⁵ The project report, with the same title, made 20 recommendations, the most substantial being for a six-month trial of a Dedicated Source Unit, in which sources that were designated 'high-risk' would have dedicated source handlers, who were separate from the investigation.³³⁶

273. This would involve applying the concept of a 'sterile corridor' to the management of such designated high-risk human sources. The Project had outlined the concept of 'sterile corridors' as being:

*...nothing more than the ability to separate the management of an investigation from the management of the human source that provides intelligence relevant to that investigation.*³³⁷

274. The Project's report identified advantages in applying a sterile corridor approach including:³³⁸

- the opportunity for an investigator to focus on an investigation without the distraction of source management issues, which often-times are not operationally relevant (i.e. – welfare issues)
- the ability for the 'duty of care' relevant to the deployment of sources to receive the appropriate level of priority. It had been the experience, particularly in undercover investigations, that investigators could be prone to 'tunnel vision', focussing on an end result and ignoring the collateral damage along the way
- a more timely response to source requests and therefore collection of intelligence. An officer assigned specifically to the task of source

³³³ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 16, VPL.0100.0048.0789 @.0804.

³³⁴ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 16, VPL.0100.0048.0789 @.0804.

³³⁵ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 16, VPL.0100.0048.0789 @.0804.

³³⁶ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 16, VPL.0100.0048.0789 @.0804.

³³⁷ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 20, VPL.0100.0048.0789 @.0808.

³³⁸ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 20-1, VPL.0100.0048.0789 @.0808-.0809.

management would have a greater opportunity to service a source and therefore collect what may be time critical intelligence

- minimising instances of compromise of investigations and policing methodology, given that appropriately trained members would be better able to guard against source 'fishing' expeditions for police methodology and/or investigation strategy. Additionally, investigators could 'silo' the release of information so that a source handler may in fact never be aware of particular information relevant to an investigation and therefore be unable to inadvertently compromise that investigation.

Ethics and Corruption

275. The Project's report acknowledged that the reputation of Victoria Police had been tarnished in the years prior by the presence of serious corruption within the Crime Department, with the former Drug Squad being the epicentre. Each instance of corruption within the Drug Squad had involved a criminal informer. It was noted that:

*A common factor in all cases involving the corruption of a police investigator by a human source is the fact that the handler/source relationship changed from being a professional/business type relationship to a personal relationship.*³³⁹

276. Recognising that the development of a personal relationship between handler and source was 'almost inevitable', and that great care must be taken to ensure it remained professional, the Report pointed to the need for appropriate selection processes, controls and training to minimise risks in this area.

277. Four 'ethical dangers' were present in these unhealthy personal relationships were identified:

- failure to cope with disclosure
- loss of identity
- noble cause corruption
- total corruption.

278. In respect of the failure to cope with disclosure, the Report stated:

The criminal justice system presents significant hurdles to the effective use of human sources by law enforcement. The criminal justice system is based on the concept on justice being transparent and open. This is the antithesis of the requirements of a human source system which is based on the covert collection of evidence and intelligence in a manner which will protect the identity of the human source and limit exposure of police methodology.

There is a great temptation by handlers to be economical with the truth by failing to properly disclose the role played by sources in police operations. Managers which condone this course of action or

³³⁹ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 17, VPL.0100.0048.0789 @.0805.

*turn a blind eye to its existence fail to develop strategies designed to meet the requirements of a human source system and the court system. This in turn leaves themselves and their organisations open to the risk of compromise of the source system and/or total corruption.*³⁴⁰

279. In respect of the risk of noble cause corruption, the Report stated:

*Put simply, noble cause corruption is the belief that the ends justifies the means, the noble cause being the putting of criminals behind bars. Participation in noble cause corruption often occurs incrementally, with the handler's moral barriers being broken down in small pieces. It may start with the turning of a blind eye to certain activities by the source in the name of achieving a result, but can ultimately end with a belief by the handler that any type of action is justifiable.*³⁴¹

DSU Pilot

280. In December 2003, the IMU submitted a concept proposal for a method of applying a sterile corridor, which included the implementation of a Dedicated Source Handling Team to separate investigators from handlers.³⁴²

281. During the first half of 2004, Victoria Police conducted two reviews of the organisation's human source management practices, which involved the examination of human source structures in other national and international law enforcement agencies. Both reviews called for the application of a 'sterile corridor' to the management of human sources, thereby separating the management of sources from the management of investigations. Consequently, Deputy Commissioner Peter Nancarrow chaired a meeting on 6 July 2004 in which it was agreed that there would be a six month pilot of a DSU.³⁴³

282. A Steering Committee was established, comprising:

- Commander Moloney (Ethical Standards Department)
- Commander Purton (Crime Department)
- Acting Commander Rod Wilson (I&CS)
- Detective Superintendent Biggin (MDID)
- Detective Inspector Cowlshaw (SID).

283. The DSU pilot operated between 1 November 2004 and 30 May 2005, with the DSU charged with:

³⁴⁰ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 18, VPL.0100.0048.0789 @.0806.

³⁴¹ Exhibit RC0276 Review & Develop Best Practice Human Source Management Policy 2004, 16 April 2004, 18, VPL.0100.0048.0789 @.0806.

³⁴² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, 46 [5.10], VPL.0014.0005.0001; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, tendered 27 March 2019, Annexure 56, 4, VPL.0005.0007.0016 @.0019.

³⁴³ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, 8, VPL.0005.0108.0001 @.0002; Exhibit RC1784 Corporate Management Review Division – Evaluation of Dedicated Source Unit – Pilot, April 2005, 6, VPL.0100.0048.0677.

- the management of all high-risk sources
- [REDACTED].³⁴⁴

284. The Pilot also provided a contact point for operational members seeking advice on all aspects of human source management.³⁴⁵

285. The Pilot commenced with sufficient personnel for one team, with one part time Detective Inspector, one [REDACTED] Controller, one [REDACTED] Project Officer, four [REDACTED] Handlers and one [REDACTED] Analyst.³⁴⁶

Evaluation of the DSU Pilot Program

286. There were two evaluations of the DSU Pilot:

- the 'Evaluation of the Dedicated Source Unit Pilot', by the Corporate Management Review Division (CMRD)
- the 'Findings of the Dedicated Source Unit Pilot Report', prepared by Mr Sandy White, who was the DSU controller during the pilot.

Report by the Corporate Management Review Division

287. In April 2005, the CMRD's Evaluation of the Dedicated Source Unit Pilot, prepared by Inspector Peter Townsend and Inspector David Feather, was released (the CRMD Evaluation).³⁴⁷ The CMRD Evaluation made 13 recommendations, including:³⁴⁸

- the continuation of the DSU, to be placed under the State Intelligence Division
- changing terminology from 'informer' to 'human source' and therefore the name of the IMU to the Human Source Management Unit (HSMU)
- development of an implementation strategy to use the DSU risk assessment force-wide
- employment limitations and requirements for members of the DSU.

288. The CMRD, in supporting the continuation of the DSU, noted in relation to staffing the immediate need to effectively double the piloted staff and add the position of Inspector in Charge DSU.³⁴⁹

Acknowledgement of Responsibilities

289. The CMRD Evaluation included an audit of the 2004 recommendations, and amongst other matters referred to a recommendation relating to the

³⁴⁴ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, 3, VPL.0005.0108.0001, @.0003.

³⁴⁵ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, 2, VPL.0005.0108.0001, @.0002.

³⁴⁶ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, 11, VPL.0005.0108.0001, @.0011.

³⁴⁷ Exhibit RC1784 Corporate Management Review Division – Evaluation of Dedicated Source Unit – Pilot, April 2005, 1, VPL.0100.0048.0677.

³⁴⁸ Exhibit RC1784 Corporate Management Review Division – Evaluation of Dedicated Source Unit – Pilot, April 2005, 9-17, 31-32, VPL.0100.0048.0677 @.0685-.0693, .0707-.0708.

³⁴⁹ Exhibit RC1784 Corporate Management Review Division – Evaluation of Dedicated Source Unit – Pilot, April 2005, 10, VPL.0100.0048.0677, @.0694-.0686.

'Acknowledgement of Responsibilities' of an informer. The recommendation was that the IMU policy be updated to require:

- I. *Where an Informer is to be registered, the terms and conditions surrounding the relationship must be explained, either as they are outlined, or in language that conveys the intentions of the document.*
- II. *Completion of the document is effected by the Controller:*
 - a) *Obtaining the Informer's signature in the area provided; ■*

- III. *Guidelines as to the necessary terms and conditions of the relationship are to be outlined in the Informer Management Policy.*
- IV. *The Central Informer Registrar must be satisfied that this instruction has been complied with.*

290. While the IMU policy required further revision, the advice of the policy amendment to incorporate the above matters was globally circulated via email. This was authorised by Mr Overland on 8 April 2004 and was supported by an amendment to the Informer Management 'Acknowledgement of Responsibilities' form. The form was in use from 8 April 2004 onwards. Advice of the policy amendments, which included changes to the 'Acknowledgement of Responsibilities' form and authored by Assistant Commissioner Overland, was circulated via a 'global email', presumably an internal email to all or relevant Victoria Police members, on 8 April 2004.³⁵⁰

Findings of the Dedicated Source Unit Pilot Report

291. The Findings of the Dedicated Source Unit Pilot Report (the DSU Pilot Report) was completed at a time when the DSU had been given its charter and was a permanent unit of Victoria Police. In the executive summary it highlighted the success of the DSU applying a sterile corridor and noted further:

Anti-corruption strategies and high level 'intrusive' supervision, underpinned by a requirement that every operational decision is properly documented and capable of withstanding any subsequent scrutiny, aims to ensure that the integrity of the DSU is 'bombproof'.³⁵¹

292. The DSU Pilot Report made 12 recommendations, including:³⁵²
- the DSU's name be updated to the Source Development Unit (SDU) to more accurately reflect the charter of the unit

³⁵⁰ Exhibit RC1784 Corporate Management Review Division – Evaluation of Dedicated Source Unit – Pilot, April 2005, 18-20, VPL.0100.0048.0677 @.0694-.0696.

³⁵¹ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, 2-3, VPL.0005.0108.0001 @.0002 –.0003.

³⁵² Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, 73-74, VPL.0005.0108.0001 @.0073 –.0074.

- recommendations relating to training³⁵³
- recommendations relation to research.³⁵⁴

Need for Full Time Inspector

293. The Inspector allocated to the DSU during the pilot was shared with the Security Intelligence Group. The DSU Pilot Report found that the lack of a full time Inspector proved detrimental to the pilot, as the [REDACTED] duties as controller were impeded by the administration required by him on a day to day basis.³⁵⁵
294. It was noted that this problem would increase when there was expansion of the DSU. When there was more than one [REDACTED], there would be an even greater requirement for the Inspector to be managing day to day operations.³⁵⁶ This was more so in the case of the DSU than in other units, because of the hands-on operational role required of a controller, who needed sufficient time to 'intrusively supervise' the handler/source relationship.³⁵⁷
295. The DSU Pilot Report noted that the Inspector, as the OIC, would amongst other matters, be responsible for setting the ethical benchmark.³⁵⁸
296. The DSU Pilot Report referred to the consequences of inadequate supervision of handlers, noting that this had resulted in significant corruption issues and embarrassment for Victoria Police in the past. It was said that a failure to provide controllers with sufficient time to perform that supervision role would impact on the ability of a source management team to make sound and ethical operational decisions regarding source deployment and tasking.³⁵⁹
297. In his statement to the Commission, Mr Cowlshaw described himself as the OIC 'on a strict reading of the management policy' at the time of Ms Gobbo's registration in September 2005.³⁶⁰ He was the line supervisor of Sandy White from September 2005 until March 2006.³⁶¹
298. The DSU also operated out of [REDACTED], and thus the part time Inspector they shared with the Security Intelligence Group was primarily [REDACTED].

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

³⁵⁵ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, tendered 30 July 2019, 11, VPL.0005.0108.0001 @.0011.

³⁵⁶ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, tendered 30 July 2019, 11, VPL.0005.0108.0001 @.0011.

³⁵⁷ Exhibit RC1790 Specialist Informer Handling Teams Concept Proposal, 19 March 2009, 10, VPL.0100.0056.0299 @.0308; See also Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, tendered 30 July 2019, 11, VPL.0005.0108.0001 @.0011.

³⁵⁸ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, tendered 30 July 2019, 11-12, VPL.0005.0108.0001 @.0011-.0012.

³⁵⁹ Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004–30 April 2005, 12, VPL.0005.0108.0001 @.0012.

³⁶⁰ Exhibit RC0819 Statement of Mr Douglas (Doug) Cowlshaw, 26 July 2019, 3 [9], VPL.0014.0045.0001 @.0003.

³⁶¹ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10301, RCMPI.0159.0001.0010.

299. Responding to a recommendation of the DSU Pilot Report, the unit's name was changed to Source Development Unit to more accurately reflect the purpose of the unit.³⁶²

Inspectors of the SDU

300. The Detective Inspectors, or OICs, at the SDU from the time of Ms Gobbo's registration were:
- Douglas Cowlshaw – 16 September 2005 to 15 March 2006
 - Dean McWhirter – 16 March 2006 to 18 April 2006 and 13 June to 7 July 2006
 - Rob Hardie – 18 April 2006 to early 2008
 - Andrew Glow – early 2008 to 3 May 2010
 - John O'Connor – 3 May 2010 to 2013.
301. Mr O'Connor was the first full time Inspector/OIC. His appointment occurred in the midst of the civil litigation launched by Ms Gobbo against Victoria Police.

Mr Cowlshaw

302. Mr Cowlshaw was listed as the OIC on the Informer Registration/Activation Application, pursuant to which Ms Gobbo was registered as a human source.³⁶³
303. He said that he was listed as the OIC because the controller was listed as Sandy White, and within the structure of State Intelligence Operations, he was Sandy White's immediate supervisor.³⁶⁴ In his evidence to the Commission, he explained that:
- there was supposed to be a dedicated Inspector in charge of it. I had about eight other units at the time, I was also the Commander of the Joint Intelligence Group for the Commonwealth Games. So whilst I was notionally, it wasn't my day-to-day number one priority to do it.*³⁶⁵
304. Mr Cowlshaw further stated in his evidence that the position of OIC was never resourced or funded.³⁶⁶ Nonetheless, Mr Cowlshaw accepted that the function of an OIC of the SDU, included ensuring the maintenance of an ethical benchmark.³⁶⁷
305. On 26 October 2005, Mr Cowlshaw had a three-hour meeting with Sandy White. At the commencement of the meeting, Sandy White briefed Mr Cowlshaw about the use of Ms Gobbo. Mr Cowlshaw recorded that in this context they discussed 'supergrass' sources, and formalising security

³⁶² Exhibit RC0278 Report on the Findings of Dedicated Source Unit Pilot, 1 November 2004 – 30 April 2005, tendered 30 July 2019, 73-74, VPL.0005.0108.0001 @.0073-.0074.

³⁶³ Exhibit RC0819 Statement of Mr Douglas (Doug) Cowlshaw, 26 July 2019, 3 [8], VPL.0014.0045.0001 @.0003.

³⁶⁴ Exhibit RC0819 Statement of Mr Douglas (Doug) Cowlshaw, 26 July 2019, 3 [9], VPL.0014.0045.0001 @.0003.

³⁶⁵ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10301.

³⁶⁶ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10300.

³⁶⁷ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10307.

measures with the IMU.³⁶⁸ Mr Cowlshaw said he did not know Ms Gobbo personally at this time, but knew of her because her uncle was a judge and from his appearances at courts in his capacity as a detective.³⁶⁹

306. On 23 November 2005, Mr Black, acting controller for Ms Gobbo, delivered the SDU Risk Assessment for Ms Gobbo to Mr Cowlshaw, as the OIC.³⁷⁰ Mr Cowlshaw accepted that he received the Risk Assessment, and that he would have read it.³⁷¹

307. The Risk Assessment by Officer Smith included that:

The Source is a criminal barrister, who is extremely well known within the legal fraternity.

...

The Source is currently acting for several members of the Mokbel criminal cartel, including Tony Mokbel.

...

*Within a short time, the Source has provided credible and valuable intelligence to police. The Source is well placed to obtain tactically viable intelligence in relation to the criminal activities of the Mokbel cartel.*³⁷²

308. He accepted that if he had read the Risk Assessment, it would have made it perfectly clear to him that she was to be informing on people who had previously been described as her clients.³⁷³

309. Within the Risk Assessment, Mr Black states that:

*The Source is a criminal barrister in the Victorian legal community and represents many high profile criminal identities. One group of clients is the Mokbel family, who are regarded as one of the major drug trafficking consortiums in Australia.*³⁷⁴

310. The Risk Assessment said nothing as to risks associated with Ms Gobbo's role as a lawyer and professional duties to her clients. There is no indication that there were any such additional risks considered by Mr Cowlshaw, or his superiors.

³⁶⁸ Exhibit RC0822 Mr Douglas (Doug) Cowlshaw day book, 26 October 2005, 3, VPL.0100.0001.5942 @.5944; Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10310–10311.

³⁶⁹ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10310.

³⁷⁰ Exhibit RC0591 Officer Black diary, 23 November 2005, VPL.0016.0001.0057; Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10297, 10314; RC0823, Officer Green diary, 23 November 2005, 2, VPL.0005.0244.0001 @.0002.

³⁷¹ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10314-5.

³⁷² Exhibit RC0285 DSU Risk Assessment relating to Nicola Gobbo, November 2005, 1, 4, VPL.2000.0003.8288 @.8288, @.8291.

³⁷³ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10329.

³⁷⁴ Exhibit RC0285 DSU Risk Assessment relating to Nicola Gobbo, November 2005, 7, VPL.2000.0003.8288 @.8294.

311. On 24 November 2005, Mr Cowlshaw and Mr Moloney, the Commander of Intelligence & Covert Support (I&CS) attended at the SDU covert premises, according to Mr Cowlshaw's day book 're visit + admin'.³⁷⁵
312. On 19 December 2005, Mr Cowlshaw was briefed about the status of all the DSU's registered human sources. He recorded in his diary in respect of Ms Gobbo, '3838 – she gave mail last week re speed cook for Mokbel. Operation Posse (Purana)'.³⁷⁶
313. According to the Source Management Log (SML), on a number of other occasions in December 2005, Mr Cowlshaw was disseminated information received from Ms Gobbo which all seemed to relate to potential leaks to criminals by police, perhaps indicating he had a liaison role with ESD in that respect.³⁷⁷

314. **On the evidence, it is open to the Commissioner to find that in performing his role as OIC in late 2005, Mr Cowlshaw failed to:**
- 314.1. **identify any additional risks or concerns that were posed by Ms Gobbo's use as a human source, given that she was a practising criminal barrister who was at the time of her registration acting for members of the Mokbel 'cartel'**
- 314.2. **raise any such risks or concerns with superior officers.**
- That is so, because:**
- 314.3. **given the role of the OIC set out in Chief Commissioner's Instruction CCI 6/04 and referred to at paragraphs 240 and 241 above, it should have been apparent to Mr Cowlshaw from the risk assessment document alone, that Ms Gobbo's registration was unusual in that she was a practising criminal barrister who was at the time of her registration acting for members of the Mokbel 'cartel'**
- 314.4. **as an officer with oversight and supervision responsibilities over the activities of the SDU, he was required to consider the implications and risks associated with the use of an informer in such circumstances, and to take steps to satisfy himself that what had occurred and what continued to occur in respect of the use of Ms Gobbo by Victoria Police was lawful or otherwise proper.**

315. It is submitted that any finding in this regard should allow for the difficulties faced by Mr Cowlshaw, given the lack of funding for a dedicated Inspector.

Mr McWhirter

³⁷⁵ Exhibit RC0820 Mr Douglas (Doug) Cowlshaw day book, 24 November 2005, 11, VPL.0100.0001.5942 @.5952.

³⁷⁶ Exhibit RC0820 Mr Douglas (Doug) Cowlshaw day book, 19 December 2005, VPL.0100.0001.5942 @.5955.

³⁷⁷ Transcript of Mr Douglas (Doug) Cowlshaw, 3 December 2019, 10318-10320.

316. Mr McWhirter performed temporary duties as Inspector between March and April 2006, and again between June and July 2006.³⁷⁸
317. The SML indicates that he was also acting as the controller in relation to Ms Gobbo in the absence of Sandy White,³⁷⁹ although there does not appear to have been much in the way of supervision by him of the source-handler relationship.

Mr Hardie

318. Throughout 2005 to 2008, Mr Hardie was the OIC in relation to the Undercover Unit and as well as the SDU.³⁸⁰
319. It is apparent that he had relevant operational experience and was well regarded and respected by members of the SDU.
320. Mr Hardie had been involved meetings in September and October 2005 with Sandy White,³⁸¹ prior to his taking on the additional role as OIC of the SDU, where discussions were being had about the use of Ms Gobbo's information, including the setting up of a taskforce and possible [REDACTED] strategies. An early scenario had involved the setting up of an [REDACTED] between Ms Gobbo and Mr Cooper with Mr Flynn, whom it was thought might convince Mr Cooper to assist police. The meetings also included discussion as to whether Ms Gobbo would [REDACTED] [REDACTED] Mr Tony Mokbel or whether that should be done via Mr Cooper if he agreed to assist.³⁸²
321. An analysis of SDU records indicates that following his taking on the additional role as OIC of the SDU, despite his part time status, Mr Hardie took on an active role as the Inspector. He was briefed regularly, attended SDU meetings and was consulted on and involved in issues as they arose with Ms Gobbo's management and handling.³⁸³
322. Mr Biggin stated that on occasions Mr Hardie or the SDU controllers raised concerns with him that they thought Ms Gobbo may be providing privileged information.³⁸⁴ On this evidence, it would appear likely that such issues were discussed during SDU office meetings.

323. On the evidence, it is open to the Commissioner to find that during his time as OIC of the SDU, Mr Hardie was aware:

323.1. that Ms Gobbo was a barrister

³⁷⁸ Transcript of Assistant Commissioner Dean McWhirter, 2 December 2019, 10161.

³⁷⁹ Exhibit RC0284 SML3838, 13 March 2006, 20, VPL.2000.0001.9447 @.9466; Transcript of Assistant Commissioner Dean McWhirter, 2 December 2019, 10170.

³⁸⁰ See, e.g, Transcript of Mr Sandy White, 5 August 2019, 3856; Transcript of Mr Anthony Biggin, 9 October 2019, 7566, 7576, 7587-9.

³⁸¹ See, e.g, Transcript of Mr Sandy White, 5 August 2019, 3856, 3867; Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7587, 7600.

³⁸² Exhibit RC0284 SML3838, 30 September & 5 October 2005, 3, VPL.2000.0001.9447 @.9449; Transcript of Mr Sandy White, 5 August 2019, 3858, 3867.

³⁸³ See, e.g, Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7475, 7553, 7565-6, 7587-9.

³⁸⁴ Exhibit RC0577B Statement of Mr Anthony (Tony) Biggin, 25 July 2019, 28 [161], VPL.0014.0041.0008 @.0035.

- 323.2. **that Ms Gobbo was providing information to her handlers concerning her clients**
- 323.3. **of the potential legal consequences associated with the use of a barrister as a human source.**

That is so, because he had raised his concern on occasions to Mr Biggin that Ms Gobbo may have been providing privileged information to the SDU.

324. **On the evidence, it is open to the Commissioner to find that, knowing that Ms Gobbo may have been providing privileged information to the SDU, Mr Hardie should have, but did not, take steps to ensure that the members of his unit had not obtained, or were not continuing to obtain, information from Ms Gobbo concerning people for whom she was acting, or had acted.**

Mr Glow

325. Mr Glow took over from Mr Hardie as the OIC of the Undercover Unit and the SDU in 2008.³⁸⁵
326. Mr Glow was based at the [REDACTED]. He said he did this as he understood there were greater risks to members at the UCU given their involvement in covert work, and he recalls being spread very thin across the two units. He said he attended the SDU [REDACTED] to conduct welfare checks, attend meetings and receive progress reports perhaps once or twice a week.³⁸⁶ In effect, this meant that the Inspector supervising the SDU spent far less than half his time supervising that unit.
327. Mr Glow said that he understood his role at both the SDU and the UCU as a manager of policy, procedural and financial administration associated with running the two units, explaining:
- I saw my job as “greasing the wheels” for the members to do their specialist policing work.*³⁸⁷
328. Prior to his role with the SDU, Mr Glow had no experience in human source management or in handling sources. He said whilst he was ‘a little uneasy’ about dealing with an area of police in which he had little training or

³⁸⁵ Exhibit RC1217B Statement of Inspector Andrew Glow, 21 November 2019, 6 [39], VPL.0014.0095.0001 @.0006; Transcript of Mr Anthony (Tony) Biggin, 9 and 10 October 2019, 7566, 7624.

³⁸⁶ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 1 [4], 3 [17], 4 [23], VPL.0014.0095.0001, @.0001, @.0003, @.0004.

³⁸⁷ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 3 [18], VPL.0014.0095.0001, @.0003.

experience, he tried to learn on the job to make sure members could focus on their work.³⁸⁸

329. The day to day running of the SDU was given over to the two [REDACTED], Messrs Sandy White and Black. Mr Glow had previously worked as a Detective alongside Sandy White whom he regarded as a 'good operator and a sharp [REDACTED]'. He was aware that Sandy White had laid the foundations for the SDU and that he was the de facto leader of the SDU in his absence.³⁸⁹
330. Mr Glow's role overseeing the SDU occurred during a significant period in the relationship between Victoria Police and Ms Gobbo, yet Mr Glow claimed that he did not know that the human source with registration numbers 2958 and 3838 was Ms Gobbo.³⁹⁰
331. In his statement to the Commission, Mr Glow said that his 'management role' did not require general knowledge as to the identity of human sources, and whilst he may have read some source profiles in his role at the SDU he had no recollection of having seen Ms Gobbo's profile. He was confident that if he had 'needed to know' the identity of a particular source, members would have told him, and that he did not ever recall having asked.³⁹¹
332. A number of witnesses spoke about the 'need to know' principle. Mr Moloney, in his statement to the Commission, referred to a 'key' policing practice known as 'need to know', being the concept that information is only shared on a 'need to know' basis. Mr Moloney said this was to ensure that information was not disseminated more widely than was necessary for the task at hand. For example, the identity of a human source would be information that would be shared on a 'need to know' basis only.³⁹²

333. **On the evidence, it is open to the Commissioner to find that, despite his evidence to the contrary, during his tenure as the OIC of the SDU, Mr Glow was aware that Ms Gobbo was a barrister who was acting as a human source. That is so, because:**
- 333.1. **given his rank, he would have understood the implications of potentially tainted evidence in the court environment**
- 333.2. **he became the OIC on 3 February 2008 and on 13 February 2008 was given the task of conducting a risk assessment and a 'procedural, ethical and value audit' in relation to '3838', whose number had changed to '2958'.³⁹³ He would have taken steps to comply with this direction. In his**

³⁸⁸ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 3 [19], VPL.0014.0095.0001, @.0003

³⁸⁹ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 3-4 [20]-[22], VPL.0014.0095.0001, @.0003 -@.0004.

³⁹⁰ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 1 [5]-[7], 3 [17], VPL.0014.0095.0001, @.0001, @.0003.

³⁹¹ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 4 [24]-[27], VPL.0014.0095.0001, @.0004.

³⁹² Exhibit RC1325 Statement of Mr Danyne Moloney, 28 November 2019, 6 [34], VPL.0014.0070.0025 @.0030.

³⁹³ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 6 [39], [42], VPL.0014.0095.0001 @.0006; Exhibit RC0589 Issue Cover Sheet, SDU Audit of human sources January 2008, 1, VPL.6066.0025.8874 @.8874.

statement he noted emails that indicated he contacted Messrs Sandy White, Black and Hardie as to the way to proceed with such an audit.³⁹⁴ It could be concluded that Mr Glow would have read prior risk assessments. As referred to above in the analysis of Mr Cowlshaw's tenure, the risk assessments referred to the source being a well-known criminal barrister, acting for members of the Mokbel criminal cartel including Mr Tony Mokbel, about whom she was providing information

- 333.3. he was aware of an individual human source with the registration numbers 2958 and 3838. It was only shortly prior to his commencement that the change in registration number had occurred. The Issue Cover Sheet identifies the extent of co-operation of the source, primarily for Purana in relation to serious organised crime groups which had resulted in numerous arrests and convictions. It also identifies that the source is female³⁹⁵
- 333.4. on 14 March 2008, Mr Black briefed Mr Glow about '2958', including about an incident that had occurred the previous day.³⁹⁶ It is most unlikely that Mr Glow was briefed in relation to this event without being told about Ms Gobbo's identity, or without the 'need to know' her identity
- 333.5. on 17 April 2008, Sandy White recorded in his diary that he called Mr Glow and updated him 're 2958 car fire'.³⁹⁷ Ms Gobbo's car had been set alight whilst she dined in a restaurant nearby. Prior to this Ms Gobbo had been the subject of ongoing anonymous threats which were the subject of investigation by the Purana Taskforce in Operation Gosford. This was another significant issue in respect of Ms Gobbo's safety. It also received media attention at the time
- 333.6. according to the SML, on 5 May 2008, a review was conducted by Messrs Biggin and Glow which involved an analysis of Ms Gobbo's management by them. This occurred in the context of an off-site SDU conference in a country location, the minutes of which indicate the presence of Mr Glow³⁹⁸

³⁹⁴ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 7 [44], VPL.0014.0095.0001, @.0007.

³⁹⁵ Exhibit RC0348 Issue Cover Sheet – Request for approval to change source registration number, 23 January 2008, 1, VPL.2000.0001.9446.

³⁹⁶ See Chapter 16 for further conflict cases – Ms Gobbo representation of Orman and Gatto. In short, the State Surveillance Unit (SSU) had been engaged to follow a meeting involving Mr Gatto and Ms Gobbo on 13 March 2008. One of the SSU members had 'lost' Mr Gatto, and rang another member asking that Ms Gobbo be contacted for his location, effectively 'outing' Ms Gobbo as a source. There were serious concerns raised because of potential links of the other member to associates of Mr Gatto. Mr Glow noted in his diary, "issue why not advised earlier": Exhibit RC1556 Inspector Andrew Glow diary, 14 March 2008, 16, VPL.0005.0168.0001 @.0016. See also Exhibit RC1217, Statement of Inspector Andrew Glow, 21 November 2019, 6 [40], VPL.0014.0095.0001 @.0006.

³⁹⁷ Exhibit RC0305 Sandy White diary, 17 April 2008, VPL.0009.0001.0711.

³⁹⁸ Exhibit RC0284 SML2958, 5 May 2008, 28, VPL.2000.0001.9236 @.9263; Exhibit RC0396 SDU Seminar minutes, 5 May 2008, VPL.6025.0002.0624.

- 333.7. **the SML of this date included reference to the length of the registration (2.5 years), the constant threats escalating to arson for which Tony Bayeh was the prime suspect, that members of the Mokbel group were actively talking about Ms Gobbo ‘helping suspects roll over on them’ and that she was now considered part of the Carlton crew as a consequence of a close relationship with Mick Gatto. There was further reference to ‘lack of payment for services rendered’ in relation to the Mokbel group, that her original goal in assisting police had been to get the Mokbel’s out of her life³⁹⁹**
- 333.8. **the minutes of the conference reflect similar matters. They also include that the threats to Ms Gobbo centred around two issues: that Ms Gobbo had ‘turned’ Mr Cooper and her role in ‘turning him’ was now coming out; that she had provided advice to a person who was to be called to a compulsory hearing to tell the truth about Mr Bayeh’s involvement. Further there was reference to issues about Ms Gobbo’s involvement with Mr Bickley to the time of his arrest, and reference to the significance of upcoming court dates for those suspected of being involved in the threats to Ms Gobbo⁴⁰⁰**
- 333.9. **assuming, especially given concern of the safety of Ms Gobbo, that Mr Glow carried out some kind over oversight role of the matter, that he read the SML, there were numerous entries which indicated that Ms Gobbo was a lawyer, even if the reading was limited to the 2008 period⁴⁰¹**
- 333.10. **on a number of occasions, the SML referred to Ms Gobbo by name, including in relation to the issue referred to above on 14 March 2008 as well as another on 14 October 2008⁴⁰²**
- 333.11. **on 13 August 2008, Mr Glow was included on emails in which instructions were being given and arrangements being made to provide Ms Gobbo’s identity to the Assistant Director of the OPI, Mr Ashton⁴⁰³**
- 333.12. **on around 15 August 2008, Mr Glow had discussions with Sandy White about a request to authorise the purchase of concert tickets for ‘3838’ as a ‘welfare payment’, and that following this he spoke with Mr Biggin about a request for \$1,000 assistance to ‘3838’⁴⁰⁴**
- 333.13. **on 3 September 2008, Sandy White reported to Messrs Biggin and Glow as to a concerning subpoena which had been issued during the trial of Mr Horty Mokbel and Mr Tony**

³⁹⁹ Exhibit RC0284 SML2958, 5 May 2008, 28, VPL.2000.0001.9236 @.9263.

⁴⁰⁰ Exhibit RC0396 SDU Seminar minutes, 5 May 2008, 6, VPL.6025.0002.0624 @.0147.

⁴⁰¹ See, eg, Exhibit RC0284 SML2958, 5 & 7 February, 6, 7, 10 & 11 March, 18 June, 8 August 2008, 3, 8-13, 32-4, 39, VPL.2000.0001.9236 @.9238, .9243-.9248, .9267-.9269, .9274.

⁴⁰² Exhibit RC0284 SML2958, 14 March 2008, 7, 14 October 2008, 15-16, 49-50, VPL.2000.0001.9263 @.9250-.9251, .9284-.9285.

⁴⁰³ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 7 [49], VPL.0014.0095.0001 @.0007.

⁴⁰⁴ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 5 [37], VPL.0014.0095.0001 @.0005.

Bayeh. As detailed elsewhere in these submissions had the documents been produced as required by the subpoena, Ms Gobbo's role as a human source would have been exposed to the Supreme Court, the prosecution, the accused and also concerning for the SDU to the primary witness, Mr Cooper, whom Ms Gobbo had represented and informed upon. In this email Sandy White stated:

Each IR has the potential to compromise the source and the collection in total, would definitely compromise the source, firstly to [Mr Cooper] himself and then possibly to Horthy as well.

*This matter is as much under control as we can make it. I will let you both know the result of the PII hearing when I get it.*⁴⁰⁵

- 333.14. from December 2008, significant concerns were being raised within the SDU about the prospect of Ms Gobbo becoming a witness for the Petra Taskforce and the consequences of such an event.⁴⁰⁶ Members of his crew authored a 'SWOT analysis', which was provided by Mr Biggin to Command on 5 January 2009.⁴⁰⁷ This document clearly outlined Ms Gobbo's role as a lawyer, and concerns that her use as a human source could have led to injustices and if discovered could lead to OPI, government or judicial inquiry
- 333.15. on 8 January 2009, Mr Glow was included on an email from Mr Biggin in which he provided an update as to Ms Gobbo having signed a statement in the Petra matter the previous night and therefore no longer being a human source⁴⁰⁸
- 333.16. on 13 January 2009, the deactivation form concerning Ms Gobbo was submitted to Mr Glow, who signed off on it. This noted that there was a continued risk that intelligence obtained from Ms Gobbo over the previous three years was at risk of being exposed during the court process of the Petra prosecutions, and that the SDU were to have 'active input in the dissemination of any information by VicPol that relates to the source during the court discovery process'⁴⁰⁹
- 333.17. on 17 February 2009, Sandy White emailed members of the SDU, copying in Messrs Biggin and Glow, in relation to a planned overnight workshop 're 3838 case study analysis'. It was intended that Ms Gobbo's handling team would travel down on the first day to prepare a reward application, and the following day the rest of the SDU members would attend to discuss the overall management of Ms Gobbo and a couple of other long term sources. Sandy White said that Messrs Glow and Biggin should attend on the second day

⁴⁰⁵ See Chapter 16 for further conflict cases – Disclosure regarding Horthy Mokbel and Toreq Bayeh.

⁴⁰⁶ Exhibit RC1217 Statement of Inspector Andrew Glow, 21 November 2019, 9 [56]-[60], VPL.0014.0095.0001 @.0009.

⁴⁰⁷ Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7689-7695.

⁴⁰⁸ Exhibit RC0519 Email from Anthony (Tony) Biggin to Black, Andrew Glow and others, 8 January 2009, VPL.2000.0002.0109.

⁴⁰⁹ Exhibit RC0520 Human Source deactivation form relating to Ms Nicola Gobbo, 13 January 2008, VPL.2000.0002.0109.

333.18. **Mr Black explained relevant concerns to Mr Glow on a number of occasions in mid-2009 when there was growing concern of the consequences of a decision that Ms Gobbo would make a statement and become a witness for the Briars Taskforce**

333.19. **on 1 June 2009, Mr Black referred to a meeting with Mr Ron Iddles who had taken a draft statement from Ms Gobbo for the Briars Taskforce, noting Ms Gobbo's 'dual responsibility' in terms of her role as a human source and giving legal advice to clients, disclosure of which would 'initiate a Royal Commission with perceived unsafe verdicts', and that 'current arrests HS [human source] involved with may be subject to review'⁴¹⁰**

333.20. **on 3 June 2009, Mr Black, in requesting Mr Glow to schedule a meeting with Command, 'outlined all issues again', including:**

Disclosure of individual's assistance to Victoria Police:-

1. *As a Tasked Source*
2. *Who as a(n) Active Barrister*
3. *Visiting Clients*
4. *Client who think (they) have privilege*
5. *Clients who believe they are speaking with their legal representative*
6. *That very person who then passes the information to Police*
7. *The HS then continues to act for that Client*
8. *Furthermore, HS then convinces the Client to plead guilty⁴¹¹*

333.21. **Mr Glow thereafter participated in further meetings in relation to the issue in which it is apparent that the use and tasking of Ms Gobbo by police in her capacity as a lawyer was discussed. This included a meeting with Messrs Porter, Biggin, Sandy White, Black, Fox and Officer Smith on 15 June 2009 in which Mr Black's diary entry includes:**

- *outlined very strongly that the issue of Briars is insignificant compared to the potential harm to the Organisation, convictions and future use of Human Source Management ...*
- *any PII application would probably fail given the circumstances surrounding HS⁴¹²*

333.22. **Further, on 21 to 22 July 2009, the SDU attended the off-site workshop which had been spoken about in February 2009, which Mr Glow was to attend. The minutes of this meeting indicate discussion about:**

⁴¹⁰ Exhibit RC0591b Officer Black diary, 1 June 2009, 694, RCMP.0090.0001.0001 @.0694.

⁴¹¹ Exhibit RC0591b Officer Black diary, 3 June 2009, 698, RCMP.0090.0001.0001 @.0698.

⁴¹² Exhibit RC0591b Officer Black diary, 3 June 2009, 699, RCMP.0090.0001.0001 @.0699; Exhibit RC0305 Sandy White diary, 12 June 2009, 1 VPL.2000.0001.1939; Exhibit RC0591b Officer Black diary, 12 June 2009, 701, RCMP.0090.0001.0001 @.0701; Exhibit RC0591b Officer Black diary, 15 June 2009, 702, RCMP.0090.0001.0001 @.0702.

- **provision of legal counsel by Ms Gobbo to others whilst she was registered**
- **the ‘worst case scenario’ with reference to the 31 December 2008 SWOT analysis, including the possibility of a Royal Commission, retrials occurring in relation to Ms Gobbo’s clients, there being a judicial review of police, there being a prohibition on the use of lawyers as human sources**
- **attempting another meeting with Chief Commissioner Simon Overland and Assistant Commissioner Luke Cornelius to advise of such possible outcomes if Ms Gobbo was to continue along the path of becoming a witness for the Petra and Briars Taskforces.⁴¹³**

334. **In the event that the Commissioner accepts that during his tenure as the OIC of the SDU, Mr Glow was aware that Ms Gobbo was a barrister who was acting as a human source, on the evidence, it is open to the Commissioner to find that Mr Glow should have, but did not:**

- 334.1. **take steps to ensure that the members of his unit were not obtaining information from Ms Gobbo about people for whom she was acting, or had acted; or**
- 334.2. **raise risks or concerns that this was occurring, or had occurred, with superior officers; or**
- 334.3. **take steps to determine whether any person might have been convicted in circumstances in which Ms Gobbo’s role as a human source may have affected that person’s trial, and if so convey that information to an appropriate authority.**

335. **In the event that the Commissioner does not accept that during his tenure as the OIC of the SDU, Mr Glow was aware that Ms Gobbo was a barrister who was acting as a human source, it is open to the Commissioner to find that during his tenure as the OIC of the SDU Mr Glow was in possession of sufficient information to have obliged him to have investigated and sought further information regarding risks which pertained to the use of Ms Gobbo as a human source and then satisfied himself that such risks did not exist or had been mitigated. That is so based on the matters set out in paragraphs 333.1 to 332.22.**

Mr O’Connor

⁴¹³ Exhibit RC0525 Workshop Minutes, 20-21 July 2009, 8-13, VPL.0100.0120.0001 @.0008-.0013.

336. Mr O'Connor became the OIC of the SDU on 3 May 2010, in the days after Ms Gobbo had filed a civil claim against Victoria Police.⁴¹⁴ As indicated above, he remained the officer in charge of the SDU until 2013. At no stage was he in charge of the Unit when Ms Gobbo was registered, however, he became aware of her role immediately after he was given the charge of the unit.
337. The involvement of Mr O'Connor in matters concerning Ms Gobbo is considered in Chapters 19 and 20.

⁴¹⁴ Exhibit RC0795B Statement of Superintendent John O'Connor, 11 October 2019, 2 [16], VPL.0014.0077.0001 @.0002.

CHAPTER 4 – 1999 TO 2004 – GOBBO’S EARLY CONFLICTS

Gobbo Relationship with Campbell

338. In the late 1990s Detective Senior Constable Stephen Campbell was based at the Embona Taskforce at St Kilda Road Police Station.
339. Ms Gobbo had a casual, intermittent sexual relationship with Mr Campbell for about five or six years from this time.⁴¹⁵ Following the end of the relationship, they remained friends.

Conflict in Genis

340. It appears that Ms Gobbo and Mr Campbell had met and commenced the relationship in the course of him being the informant in a prosecution of Mr John Genis, whom Ms Gobbo was defending.⁴¹⁶ Ms Gobbo and Mr Campbell were in contact from at least January 1999 and Ms Gobbo’s diary indicates the relationship was ongoing during 1999. Mr Campbell accepted this.⁴¹⁷
341. Ms Gobbo appeared on behalf of Mr Genis in December 1999 in an application to adjourn his guilty plea and then in February 2000 at his plea hearing.⁴¹⁸ Mr Campbell was unaware if Ms Gobbo disclosed their sexual relationship to Mr Genis.⁴¹⁹ Mr Campbell accepted that if the relationship was not disclosed, it ran the risk of appearing improper and that Mr Genis could have no faith he had been dealt with justly or equitably.⁴²⁰
342. Ms Gobbo, during a recorded conference call with the Commission, which she later adopted in sworn evidence, stated she would ‘highly doubt’ that she would have told her client or instructing solicitor that she was in a relationship with the informant. In any event, she said she would not have seen any problem with this situation as long as there was nothing that potentially favoured Mr Genis or put her in a position where she might have needed to be critical of Mr Campbell.⁴²¹

⁴¹⁵ Exhibit RC0135 Statement of Mr Stephen Campbell, 16 May 2019, 2 [12], COM.0049.0001.0002 @.0002; Transcript of Mr Stephen Campbell, 21 May 2019, 2127, TRN.2019.05.21.01.

⁴¹⁶ Transcript of Ms Nicola Gobbo, 11 April 2019, 946-947, TRN.2019.04.11.01.

⁴¹⁷ Transcript of Mr Stephen Campbell, 21 May 2019, 2103-2106, TRN.2019.05.21.01; Exhibit RC0137 Diary entries of Ms Nicola Gobbo, 22 March 1999, 23 March 1999, 21 May 1999, 22 May 1999, 27 May 1999, MIN.0005.0003.0001 @.0008 – 0013; Exhibit RC0138 Diary entries of Ms Nicola Gobbo, 11 October 1999, 14 October 1999, 29 November 1999, MIN.0005.0003.0001 @.0060, .0063, .0076.

⁴¹⁸ Transcript of Mr Stephen Campbell, 21 May 2019, 2101-2102, TRN.2019.05.21.01; Exhibit RC1568 Ms Nicola Gobbo fee book, 7 December 1999, 13, MIN.5000.7000.0001 @.0013; Exhibit RC0141 Extract of Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 7 December 1999, 78, OPP.0001.0004.0025 @.0102.

⁴¹⁹ Transcript of Mr Stephen Campbell, 21 May 2019, 2106, TRN.2019.05.21.01.

⁴²⁰ Transcript of Mr Stephen Campbell, 21 May 2019, 2107, TRN.2019.05.21.01.

⁴²¹ Transcript of Ms Nicola Gobbo, 11 April 2019, 949-950, TRN.2019.04.11.01.

The St Kilda Marina Rip-Off

343. In April 2002, Mr Campbell was interviewed by the ESD in relation to drug related offending by him and other members of the Embona Taskforce.
344. In February 2003, Mr Campbell was charged with drug related offences alleged to have occurred in May 1999 along with other Embona Taskforce members. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
345. The police members were represented by Tony Hargreaves and Partners Lawyers at least until after the committal proceedings.⁴²³ [REDACTED]. Detective Senior Sergeant George Tapai of ESD was the informant.
346. [REDACTED]
[REDACTED]
[REDACTED]
347. In [REDACTED] 2003, in the days prior to the committal hearing, Person 12 was arrested and taken into custody in relation to [REDACTED]. Person 12 was represented by Valos Black Lawyers [REDACTED] was a [REDACTED] in the [REDACTED] proceedings. [REDACTED]⁴²⁵
348. The committal proceedings for the drug matters ran over 5 days in September 2003. [REDACTED]
[REDACTED]⁴²⁶ [REDACTED]. Mr Geoffrey Chettle of counsel appeared for the police members.⁴²⁷
349. Mr Campbell gave evidence to the Commission that Ms Gobbo approached him the day he was charged in February 2003 and offered assistance, and that he spoke to her about his case throughout.⁴²⁸ Mr Campbell and Ms Gobbo had regular contact throughout 2003 and spent a number of evenings together during the committal, which Mr Campbell believed was at his house. Ms Gobbo did not dispute this.⁴²⁹

⁴²² Transcript of [REDACTED]; Transcript of Mr Stephen Campbell, 2112-2113, TRN.2019.05.21.01; [REDACTED].

⁴²³ Transcript of Mr Stephen Campbell, 21 May 2019, 2115, TRN.2019.05.21.01.

⁴²⁴ Exhibit RC1568 Ms Nicola Gobbo fee book, [REDACTED], 21 July 2003, [REDACTED]

[REDACTED], @.0062, .0064; [REDACTED]
[REDACTED]

[REDACTED], Statement of Person 12, 17 May 2019, 1 [5], COM.0050.0001.0001 @.0001.

⁴²⁵ Exhibit RC0147, Statement of Person 12, 17 May 2019, 1 [7], COM.0050.0001.0001 @.0001.

⁴²⁶ Exhibit RC1568 Ms Nicola Gobbo fee book, 29 September 2003, 66, MIN.5000.7000.0001, @.0066.

⁴²⁷ [REDACTED].

⁴²⁸ Transcript of Mr Stephen Campbell, 21 May 2019, 2114-2116, TRN.2019.05.21.01.

⁴²⁹ Transcript of Mr Stephen Campbell, 21 May 2019, 2117-2118, TRN.2019.05.21.01; Exhibit RC0143, Ms Nicola Gobbo diary, 14 – 19 April 2003, 12 – 18 May 2003, 21, 25, MIN.0002.0002.0001 @.0021, .0025; Transcript of Ms Nicola Gobbo, 4 February 2020, 13061-13062, TRN.2020.02.04.01.

Representation of Waters; Contact with De Santo at ESD

350. From late September 2003, Ms Gobbo had contact with Mr De Santo who was at that stage still with ESD in relation to the Dublin Street burglary investigation.⁴³⁰ Ms Gobbo previously had contact with Mr De Santo in 2002 through her representation of clients such as Mr Tony Mokbel.⁴³¹
351. In October 2003, Ms Gobbo represented Mr Waters when he was summoned to give evidence pursuant to section 56A of the *Magistrates' Court Act 1958* in relation to police proceedings against Mr Strawhorn.⁴³²
352. On 4 November 2003, Mr De Santo spoke with Ms Gobbo at the Melbourne Cup. She was in the company of Messrs Campbell and Waters. During this meeting Ms Gobbo spoke to Mr De Santo about the Dublin Street burglary investigation. Mr Waters invited Mr De Santo out to the car park to have a drink with Mr Gregory, although this invitation was not accepted.⁴³³

Conflict with Person 12

353. Following the committal of Mr Campbell and others, Ms Gobbo represented Person 12 in [REDACTED].⁴³⁴ In [REDACTED] 2004 she appeared at his committal mention for the [REDACTED].⁴³⁵
354. Later that month, Ms Gobbo told Mr De Santo that Person 12 had agreed to plead and give evidence [REDACTED].⁴³⁶ Ms Gobbo then appeared for Person 12 on [REDACTED] in the County Court at a case management conference in [REDACTED] 2004, at his guilty plea in [REDACTED] 2004 and his sentence in [REDACTED] 2004. During his plea Person 12 gave an undertaking to give evidence [REDACTED] and was sentenced to a wholly suspended term of imprisonment of [REDACTED] years.⁴³⁷

Person 12 Refuses to Give Evidence

355. In [REDACTED] 2004, at a further committal proceeding, Person 12 refused to comply with his undertaking to give evidence.⁴³⁸ He was resentenced in relation to the [REDACTED] to [REDACTED] years with a non-parole period of [REDACTED] years [REDACTED] months. He was also [REDACTED]. OPP records indicate Ms Gobbo appeared for him at a scheduled contested summary

⁴³⁰ See Chapter 2.

⁴³¹ See Chapter 2.

⁴³² Exhibit RC0273, Ms Nicola Gobbo court book, 6 October 2003, 47, MIN.0001.0014.0940 @.0986 – 0987; Exhibit RC0281 ICR3838 (024), 25 March 2006, 211, VPL.2000.0003.1797.

⁴³³ Transcript of Mr Peter De Santo, 10 May 2019, 1587, TRN.2019.05.10.01.

[REDACTED]; Exhibit RC0147, Statement of Person 12, 17 May 2019, 1 [8], COM.0050.0001.0001 @.0001.

⁴³⁶ Transcript of Mr Peter De Santo, 9 May 2019, 1514-1516, TRN.2019.05.09.01; Exhibit RC1327 Diary Entry of Mr Danyne Moloney, 20 January 2004, VPL.0005.0169.0080 @.0008.

⁴³⁸ Person 12's evidence to the Royal Commission was that he gave the undertaking as a means to try and achieve bail in relation to his [REDACTED], and that he hadn't intended to give evidence [REDACTED]; Exhibit RC0147, Statement of Person 12, 17 May 2019, 2 [10]-[12], COM.0050.0001.0001 @.0002; Transcript of Person 12, 22 May 2019, 2166, TRN.2019.05.22.01.

- hearing,⁴³⁹ although it seems he later pleaded guilty and was sentenced to a further one month's imprisonment.⁴⁴⁰
356. Ms Gobbo's diary indicates she continued to have social contact with Mr Campbell in 2004, including a half hour meeting in her chambers in May 2004.⁴⁴¹
357. In [REDACTED] 2005, she appeared as junior counsel for Person 12 at his committal on the [REDACTED].⁴⁴²
358. In May 2005, Mr Campbell and his co-accused were acquitted in relation to the drug matters.
359. Ms Gobbo appeared for Person 12 as junior counsel at a number of pre-trial hearings and his trial on the [REDACTED] which had occurred around [REDACTED] 2006.⁴⁴³ Ms Gobbo later told her police handlers that she had met with each of the police members [REDACTED] in the drug proceedings and had been asked by them to make representations to Person 12 to say that he had been pressured to make a false statement in order that they would have their funding approved through The Police Association.⁴⁴⁴ Mr Campbell did not recall any such conversation.⁴⁴⁵
360. Mr Campbell said he had been aware Ms Gobbo was representing Person 12 at the time Person 12 agreed to give evidence against him and his co-accused.⁴⁴⁶ However, Person 12 was unaware of Ms Gobbo's personal relationship with Mr Campbell, or that she had been providing advice to Mr Campbell in relation to his charges. Person 12 stated he only learned about such matters when they were put to him in the course of his evidence to the Commission and was shocked that it had occurred; he was concerned that she may have divulged his instructions and would not have engaged her to represent him had he known.⁴⁴⁷
361. According to entries in her fee book, Ms Gobbo charged Person 12 a total of \$29,110 for representing him between 2003 and 2006.⁴⁴⁸

⁴³⁹ [REDACTED]

⁴⁴⁰ *R v AB (No.2)* [2008] VSCA 39 at [22].

⁴⁴¹ Exhibit RC0273, Ms Gobbo diary, 6 January 2004, 24 January 2000, 7 May 2004, 6, 8, 23, MIN.0002.0002.0002 @.0006, .0008, .0023; Transcript of Mr Stephen Campbell, 21 May 2019, 2120-2123, TRN.2019.05.21.01.

⁴⁴² Exhibit RC1568 Ms Nicola Gobbo fee book, 86, MIN.5000.7000.0001, @.0086.

⁴⁴³ Exhibit RC1568 Ms Nicola Gobbo fee book, 95, MIN.5000.7000.0001, @.0095; Exhibit RC0281, ICR3838 (016), 28 January 2006, 134, VPL.2000.0003.1720; Exhibit RC0281, ICR3838 (017), 30 January 2006, 137, VPL.2000.0003.1723.

⁴⁴⁴ Exhibit RC0281, ICR3838 (040), 4 August 2006, 383, VPL.2000.0003.1969.

⁴⁴⁵ Transcript of Mr Stephen Campbell, 21 May 2019, 2128-2129, TRN.2019.05.21.01.

⁴⁴⁶ Transcript of Mr Stephen Campbell, 21 May 2019, 2121, TRN.2019.05.21.01.

⁴⁴⁷ Transcript of Person 12, 22 May 2019, 2156-2157, TRN.2019.05.22.01.

⁴⁴⁸ Exhibit RC1568 Ms Nicola Gobbo fee book, 62 – 95, MIN.5000.7000.0001, @.0062 - .0095. noting that one fee of [REDACTED] was written for both Person 12 and [REDACTED] in relation to a brief to draft Form 8A, appear at committal mention and preparation of a subpoena.

This submission has been redacted due to a range of non-publication claims. These claims are not yet resolved.

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CHAPTER 5 – LATE 1990S TO 2005 – DEVELOPMENT OF GOBBO’S RELATIONSHIPS WITH ORGANISED CRIME FIGURES

Introduction

362. Shortly after Ms Gobbo signed the Roll of Counsel in November 1998,⁴⁴⁹ she began representing and interacting with high-profile clients involved in serious criminality including drug trafficking, drug manufacturing, and organised crime. By early 2002 she was known as one of the ‘go-to’ lawyers for several high-profile criminal groups including the members and associates of the Mokbel family and the members and associates of Mr Carl Williams’ family. She was also socialising with key figures in organised crime on a regular basis.

The Mokbel Family

First Contact Led Gobbo to Become a Witness against Mokbel Brothers

363. Ms Gobbo was first introduced to the Mokbel family through her employment with Solicitor 1 in 1998. Ms Gobbo was an employee of the law firm that represented Mr Horty Mokbel when he was charged with defrauding the Commonwealth on 3 March 1998.⁴⁵⁰

364. Mr Horty Mokbel was granted bail on the basis of a surety which included a property owned by Ms Marie-Rose Kabalan, which was leased to Mr Tony Mokbel. Mr Tony Mokbel and Ms Marie-Rose Kabalan provided affidavits deposing to the situation with Ms Gobbo's assistance in her capacity as an employee solicitor. Mr Tony Mokbel and Ms Marie-Rose Kabalan were later charged with perjury for providing false affidavits in support of Mr Horty Mokbel's bail application.⁴⁵¹

365. On 9 April 1998, having witnessed the signing of documents, Ms Gobbo made a statement and was called as a prosecution witness against Messrs Tony and Ms Marie-Rose Kabalan.⁴⁵²

⁴⁴⁹ Transcript of Ms Nicola Gobbo, 4 February 2020, 13021, TRN.2020.02.04.01.

⁴⁵⁰ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [3]–[4], RCMP1.0100.0001.0001 @.0001; Transcript of Commission proceedings, 27 November 2019, 9920, TRN.2019.11.27.01.P.

⁴⁵¹ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [5]–[6] RCMP1.0100.0001.0001, @.0001; Transcript of Commission proceedings, 27 November 2019, 9920.

⁴⁵² Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [6] RCMP1.0100.0001.0001 @.0001; Transcript of Commission proceedings, 27 November 2019, 9920, TRN.2020.02.04.01.

366. On 16 November 1999, Messrs Tony and Ms Marie-Rose Kabalan were found not guilty of perjury.⁴⁵³ Ms Gobbo had been called as a witness at their trial.

Representation of the Mokbel Family

367. After becoming a barrister, Ms Gobbo first represented a member of the Mokbel family in April 2000 when she acted for Mr Horty Mokbel.⁴⁵⁴
368. Following this, Ms Gobbo came to represent the brothers of Mr Horty Mokbel, Tony, Milad and Kabalan in relation to a multitude of criminal charges, mostly pertaining to drug manufacture or trafficking. She appeared in a number of bail applications, committal proceedings, subpoena hearings, and as junior counsel in trials. After she had been registered as a human source, she was retained to act for Horty's wife Zaharoula and Milad's wife Renate in relation to deception and perjury charges.
369. Ms Gobbo's fee book records representation of members of the Mokbel family up until 2007.

Representation of Tony Mokbel

370. It was submitted to the Commission that Ms Gobbo also provided legal advice and representation to Mr Tony Mokbel, on an informal retainer, between 2002 and 2011.⁴⁵⁵ Ms Gobbo has said previously that Mr Mokbel became her client in early 2002,⁴⁵⁶ although there is some evidence that this occurred earlier than 2002.
371. In August 2001 Mr Mokbel had been arrested and charged following Operation Kayak (State charges) and Operation Plutonium (Commonwealth charges). Both of these matters related to trafficking and/or importation of illicit drugs including 3,4-Methylenedioxymethamphetamine (MDMA), methamphetamine and cocaine.
372. On 5 September 2001, Mr Mokbel made an unsuccessful application for bail in the Magistrates' Court. Commonwealth records indicate that Ms Gobbo appeared for him.⁴⁵⁷ State records indicate that Mr Chris Dane QC appeared for him.⁴⁵⁸ Ms Gobbo's diary on that date records 'Mokbel bail application',⁴⁵⁹ however there was no entry in her fee book and there is no record of a visit

⁴⁵³ Exhibit RC0793 Letter from Australian Federal Police lawyers to the Commission regarding disclosure of contact by Ms Nicola Gobbo, 22 November 2019, 1 [7] RCMPI.0100.0001.0001 @.0001; Transcript of Commission proceedings, 27 November 2019, 9920.

⁴⁵⁴ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 5 April 2000, 85, OPP.0001.0004.0025 at 0109.

⁴⁵⁵ Anonymous submission 030, 8 [18].

⁴⁵⁶ Exhibit RC0229 Statement of Ms Nicola Gobbo, 7 January 2009, 3, VPL.0002.0001.1456 @.1458.

⁴⁵⁷ Exhibit RC0273 Ms Nicola Gobbo diary, 5 September 2001, 494, RCMPI.0066.0001.0001 @.0494; Exhibit RC1833 Commonwealth Director of Public Prosecutions, 'List of persons for whom informant 3838 acted as legal representative in proceedings prosecuted by the CDPP', Antonios Mokbel, 5 September 2001, 1, CDP.0001.0001.0070.

⁴⁵⁸ Exhibit RC1096 DPP's Response to Commission's enquires (First statement of Kerri Judd), 8 November 2019, 18, RCMPI.0104.0001.0001 @.0018.

⁴⁵⁹ Exhibit RC0273 Ms Nicola Gobbo diary, 5 September 2001, MIN.0001.0014.0329 @.0382.

by Ms Gobbo to Mr Mokbel in custody until 8 January 2002.⁴⁶⁰ This coincided with service of the brief against Tony Mokbel.⁴⁶¹

373. Thereafter, Ms Gobbo visited Mr Mokbel in custody on 33 occasions prior to his release on bail on 4 September 2002.⁴⁶²
374. Later, when Ms Gobbo was registered as a source, she told her handler Mr Peter Smith that she and Mr Jim Valos had 'slaved away' for months to get Mr Mokbel out on bail in 2002. She said they eventually did this, but never got paid for it.⁴⁶³
375. As referred to elsewhere in these submissions, the State and Commonwealth cases against Mr Mokbel was plagued with issues arising from allegations of Victoria Police corruption in the investigation.⁴⁶⁴ Ms Gobbo was involved in significant analysis of the evidence relating to these matters, as well as seeking further material to advance the defence. This included drafting subpoenas and communication with Detective Senior Sergeant Peter De Santo (ESD) who was involved in the investigation into the corrupt police.
376. In 2006, when discussing these matters in a meeting with the SDU Ms Gobbo said she became the 'barrister to have if you want to fuck up the prosecution, stall it, get a stay or find out what's going on'.⁴⁶⁵

Gobbo Notoriety Grew because of Representation of Tony Mokbel

377. On 5 September 2002, the Herald Sun newspaper reported that Tony Mokbel had kissed Ms Gobbo on the cheek before being freed from custody on charges brought against him by Federal and State authorities concerning the importation of ephedrine, trafficking in cocaine, ecstasy and lysergic acid diethylamide (LSD).⁴⁶⁶
378. The Herald Sun report was the beginning of a high-profile public relationship between Ms Gobbo and the Mokbel criminal syndicate. Media reports in 2002 referred to Mr Tony Mokbel as a 'drug baron' who was accused of running a \$2 billion drug empire.⁴⁶⁷ Ms Gobbo was regularly filmed accompanying Tony Mokbel to or from court appearances.
379. In December 2003, the Herald Sun newspaper published an article profiling Ms Gobbo and the life she was leading. It was reported that at 31 years of age she was 'rapidly becoming the criminal barrister of choice in Melbourne'.

⁴⁶⁰ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 8, CNS.0001.0003.0037 @.0044.

⁴⁶¹ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 34, VPL.0005.0051.0871 @.0904.

⁴⁶² Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 8-12, CNS.0001.0003.0037 @.0044-.0048; Mokbel v DPP (No.3) [2002] VSC 393.

⁴⁶³ Exhibit RC0281 ICR3838 (017), 2 February 2006, 141, VPL.2000.0003.1727.

⁴⁶⁴ See [2000-2004 Drug Squad] section for more detail regarding the corruption in the Drug Squad and the subsequent prosecution of Messrs Rosenes and Paton.

⁴⁶⁵ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 35, VPL.0005.0051.0871, @.0905.

⁴⁶⁶ Elissa Hunt, 'Kiss for Lawyer as Bail Set at \$1m', *Herald Sun* (Melbourne, 5 September 2002) 3.

⁴⁶⁷ Katie Laphorne, 'Suspect's Life a Beach', *Herald Sun* (Melbourne, 19 December 2002) 7.

Ms Gobbo was dubbed the 'million-dollar eagle' having recently helped the alleged '\$2 billion drug boss' Tony Mokbel get bail.⁴⁶⁸

Social Involvement

380. Ms Gobbo's relationship with the Mokbels included a social element. Her handwritten diaries contain numerous entries relating to the Mokbel family, such as birthdays of Tony and Horty Mokbel, alongside many social occasions recorded between Ms Gobbo, Tony, Horty and Milad Mokbel. The following are examples of many more:
- 11 January 2003 'Shark Finn – Tony Dinner'
 - 16 January 2003 'Dinner Tony'
 - 17 January 2003 '9pm Jap dinner Horty'
 - 18 January 2003 'B/fast Tony'
 - 19 January 2003 'B/fast Tony'
 - 23 January 2003 '8pm Milad – dinner'.⁴⁶⁹
381. Further evidence of their social relationship appears in subsequent diaries.⁴⁷⁰ Horty, Milad and Tony were on Ms Gobbo's Christmas card list,⁴⁷¹ and Ms Gobbo attended a New Year's Eve party at Tony Mokbel's apartment in 2005, at which Milad, his wife and children were also present.⁴⁷² Ms Gobbo also attended a party held for Milad's son in April 2006.⁴⁷³
382. It appears Ms Gobbo also interacted socially with other members of the organised crime world in this period, most likely introduced through the Mokbels. A diary entry on 2 November 2003 suggests a meeting with Mr Carl Williams and Mr Mokbel for coffee at 8pm.⁴⁷⁴ On 4 March 2004, there is a diary entry which reads 'Pier 3 dinner Adam & Tony' (the reference to Adam is likely to be Azzam (Adam) Ahmed, an associate of Mr Mokbel).⁴⁷⁵
383. After Ms Gobbo had a stroke in late July 2004, she said that all the 'crooks' had 'come out of the woodwork... to express their undying love'.⁴⁷⁶

Carl Williams' family

Gobbo Connection to Carl Williams and Others

⁴⁶⁸ John Ferguson, 'Million-dollar eagle flies high', *Herald Sun* (Melbourne, 8 December 2003) 10.

⁴⁶⁹ Exhibit RC0273 2003 Ms Nicola Gobbo diary, 16 January 2003 to 26 January 2003, 1-2, MIN.0005.0003.0133 @.0134 -.0135.

⁴⁷⁰ See, eg, Exhibit RC0273 2003 Ms Nicola Gobbo diary, 24 March 2003, 6, MIN.0005.0003.0133 @ 0139.

⁴⁷¹ Exhibit RC0143 Ms Nicola Gobbo diary, 55, MIN.0002.0002.0001 @.0055.

⁴⁷² Exhibit RC0281 ICR3838 (015), 3-12 January 2006, 109-122, VPL.2000.0003.1695 - VPL.2000.0003.1708.

⁴⁷³ Exhibit RC0281 ICR3838 (025), 4-12 April 2006, 222-236, VPL.2000.0003.1808 - VPL.2000.0003.1822.

⁴⁷⁴ Exhibit RC0273 Ms Nicola Gobbo diary, 2 November 2003, 27, MIN.0005.0003.0133, @.0159.

⁴⁷⁵ Exhibit RC0273 Ms Nicola Gobbo diary, 4 March 2004, 16, MIN.0005.0003.0169, @.0184.

⁴⁷⁶ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 81, VPL.0005.0051.0871 @.0951.

384. In addition to her association with members of the Mokbel family, in the early 2000s Ms Gobbo was also regularly socialising with members and associates of Mr Carl Williams. This group seemed to be nominally led by Mr Williams and included associates of Mr Williams including Andrew Veniamin, Faruk Orman, Mr Thomas, Mr Andrews and Mr McGrath.
385. Ms Gobbo has previously stated that she met Mr Carl Williams through Mr Tony Mokbel.⁴⁷⁷ Ms Gobbo appears to have first represented Mr Carl Williams in late 2003, and she appeared for him in 2004 and later with his father, George, in 2005. Ms Gobbo had been briefed by Victoria Legal Aid to appear for Ms Roberta Williams, the wife of Mr Carl Williams, at a plea hearing at the Broadmeadows Magistrates' Court in October 1999.⁴⁷⁸

Gobbo Connection with Thomas

386. Ms Gobbo first met Mr Thomas through Horthy and Milad Mokbel in around 2001.⁴⁷⁹ Ms Gobbo later told the SDU that at the time, Mr Thomas had a bag of at least two or three ounces of cocaine on him and was very open about it.⁴⁸⁰ She said that Mr Thomas pulled out the bag and said 'what are you fuckin' looking at?'.⁴⁸¹ He had also said to her that 'if Tony's happy with you, so am I, but if you ever speak about this you will be dealt with'.⁴⁸² Ms Gobbo told her handler in 2006 that she felt quite threatened by Mr Thomas at the time, however three weeks after this first interaction, when Mr Thomas was arrested, she was the first person he called.⁴⁸³
387. The first recorded representation of Mr Thomas by Ms Gobbo was on 9 October 2002 for an appeal/bail application.⁴⁸⁴ This is also corroborated by an entry in Ms Gobbo's 2002 diary for the same date.⁴⁸⁵
388. Ms Gobbo's diary records significant social interaction with Mr Thomas, including lunch with he and Mr Thomas' personal partner, as well as recording his family member's birthday in her diary. In his witness statement to the Commission, Mr Thomas stated that he would have dinner with Ms Gobbo once or twice a week.⁴⁸⁶ Mr Thomas also alleged that Ms Gobbo would use amphetamine at casual gatherings he attended.⁴⁸⁷ Ms Gobbo denied this allegation when she appeared before the Commission.
389. In his unsworn statement to the Commission, Mr McGrath stated that he first met Ms Gobbo when introduced to her at a dinner in Chinatown in approximately mid 2003 which was also attended by Mr Mokbel, Mr Williams

⁴⁷⁷ Exhibit RC0229 Statement of Ms Nicola Gobbo, 7 January 2009, 3, VPL.0002.0001.1456 @.1458.

⁴⁷⁸ Exhibit RC0229 Statement of Ms Nicola Gobbo, 7 January 2009, 4, VPL.0002.0001.1456 @.1459.

⁴⁷⁹ Exhibit RC1175 Statement of Mr Thomas (a pseudonym), undated, 1, RCMP1.0131.0001.0001.

⁴⁸⁰ Exhibit RC0281 ICR3838 (017), 2 February 2006, 142, VPL.2000.0003.1728.

⁴⁸¹ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 41 VPL.0005.0051.0871, @.0911.

⁴⁸² Exhibit RC0281 ICR3838 (017), 2 February 2006, 142, VPL.2000.0003.1728.

⁴⁸³ Exhibit RC0281 ICR3838 (017), 2 February 2006, 142, VPL.2000.0003.1728; Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 41, VPL.0005.0051.0871, @.0911.

⁴⁸⁴ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 9 October 2002, 36, OPP.0001.0004.0025, @.0060.

⁴⁸⁵ Exhibit RC0273 Ms Nicola Gobbo diary, 9 October 2002, 12, MIN.0002.0001.0006 @.0012.

⁴⁸⁶ Exhibit RC1176, Statement of Mr Thomas, 20 December 2019, 2 [4], RCMP1.0131.0001.0001 @.0015.

⁴⁸⁷ Exhibit RC1176, Statement of Mr Thomas, 20 December 2019, 15 [59], RCMP1.0131.0001.0001 @.0015.

and Mr Thomas.⁴⁸⁸ Mr McGrath stated he was aware that Ms Gobbo had intimate relationships with his associates, including Mr Tony Mokbel.⁴⁸⁹

Gobbo Considered Aligned with Mokbel & Williams

390. Mr Tony Mokbel did not want Ms Gobbo to act for certain rival families. In the weeks before the murder of Mr Jason Moran on 21 June 2003, Mr Tony Mokbel told Ms Gobbo to 'stay away from Jason Moran and don't act for Lewis'.⁴⁹⁰
391. Following this, when Ms Gobbo appeared for Mr Lewis Moran in a bail application, she was threatened by Mr Andrew Veniamin. In 2006, Ms Gobbo reported in a meeting with the SDU that Mr Veniamin had waited on the street outside her residence, and threatened to kill her, stating 'he's on the other side'.⁴⁹¹ Ms Gobbo said she could not go to the police because 'some raging lunatic who's suspected ... in a number of murders has threatened to kill me' and that she did not want to go to Mr Tony Mokbel or Mr Carl Williams.⁴⁹² She said she spoke to Mr Veniamin's solicitor, Mr Brian Rolfe from Galbally Rolfe, who spoke to Mr Veniamin about it. The threat did not prevent Ms Gobbo from appearing subsequently for Mr Lewis Moran in an application to vary his bail.
392. It is apparent that the police too, considered Ms Gobbo aligned with, and potentially involved in, the criminality of the Mokbel and Williams groups.
393. Following the murders of Mr Pasquale Barbaro and Mr Jason Moran in June 2003, and Mr Michael Marshall in October 2003, Ms Gobbo was the subject of surveillance requests and enquiries by the Purana Taskforce.
394. Similarly, in 2004, the MDID were considering surveillance upon Ms Gobbo due to her relationship with these criminal groups.

Gobbo Being Usurped by Solicitor 2

395. Ms Gobbo stated that in October 2004, she stopped spending as much time alone with Mr Tony Mokbel because he started speaking more frequently to Solicitor 2.⁴⁹³ Ms Gobbo believed that Solicitor 2 had banned people from contacting her.⁴⁹⁴
396. Ms Gobbo later said in a meeting with the SDU that in the lead up to her registration by the SDU in September 2005, there was a period of around seven to eight months where she had stopped socialising with the Mokbel

⁴⁸⁸ Exhibit RC1411 Statement of Mr McGrath, 29 January 2020, 1 [1], COM.0103.0001.0001.

⁴⁸⁹ Exhibit RC1411 Statement of Mr McGrath, 29 January 2020, 1 [3], COM.0103.0001.0001.

⁴⁹⁰ Exhibit RC0281 ICR3838 (017), 2 February 2006, 142, VPL.2000.0003.1728; Exhibit RC0282 Transcript of conversation between Mr Peter Smith, Mr Malachite and Ms Gobbo, 2 February 2006, 38, VPL.0005.0051.0871 @.0909.

⁴⁹¹ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 45, VPL.0005.0051.0871 @.0915.

⁴⁹² Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 46, VPL.0005.0051.0871 @.0916.

⁴⁹³ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 74, VPL.0005.0051.0871 @.0944.

⁴⁹⁴ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 75, VPL.0005.0051.0871 @.0945.

family. She recalled Mr Milad Mokbel getting 'really shitty' with her because she had refused to go out for dinner.⁴⁹⁵

397. In this time, Ms Gobbo had commenced informing to the Purana Taskforce about Solicitor 2 and Mr Tony Mokbel, although was not registered as a human source during that period. These matters are detailed further in Chapter 9.
398. It seems following her registration Ms Gobbo increased contact with the Mokbels again. Ms Gobbo reported regular dinners with the Mokbel brothers and their associates to discuss legal matters.⁴⁹⁶

⁴⁹⁵ Exhibit RC0282 Transcript of conversation between Peter Smith, Malachite and Nicola Gobbo, 2 February 2006, 79-80, VPL.0005.0051.0871 @.0949-.0950.

⁴⁹⁶ Exhibit RC0281 ICR3838 (004), 27 September 2005 to 1 October 2005, 18-24, VPL.2000.0003.1604-.1610.

CHAPTER 6 - 2003 – THE GANGLAND WARS & THE ESTABLISHMENT OF PURANA

History of the Gangland Wars

399. From 1998 there occurred in Melbourne a series of murders and shootings which colloquially became known as the ‘gangland wars’. Melbourne underworld gangs at the time included the ‘Carlton crew’ which included the Moran family, and those associated with the Williams family with whom Mr Tony Mokbel was aligned.
400. It eventually became apparent the murders and shootings were retributive, or pre-emptive strikes, involving various underworld groups who were fighting for control and influence in Melbourne’s illicit drug trade. In particular, a precipitating event of a significant number of murders had been the shooting of Mr Carl Williams in the stomach by the Moran brothers in 1999. Mr Williams survived this attack and later sought revenge.
401. Those events included:

16 January 1998	Killing of Alphonse Gangiatano
3 August 1998	Killing of John Furlan
23 November 1998	Killing of Charles Hegyaljie
9 January 1999	Killing of Vince Mannella
28 May 1999	Killing of Joseph Quadara
9 September 1999	Killing of Dimitrios Belias
13 October 1999	Shooting of Carl Williams
20 October 1999	Killing of Gerardo Mannella
8 May 2000	Killing of Francesco Benvenuto
16 May 2000	Killing of Richard Mladenich
15 June 2000	Killing of Mark Moran
14 October 2000	Killing of Dino Dibra
22 March 2001	Killing of George Germanos
1 May 2002	Killing of Victor Peirce
15 October 2002	Killing of Paul Kallipolitis
28 December 2002	Shooting of Mark Smith
15 April 2003	Killing of Nikolai Radev
21 June 2003	Killing of Jason Moran and Pasquale Barbaro
21 July 2003	Killing of Willy Thompson
18 August 2003	Killing of Mark Mallia
11 September 2003	Killing of Housam Zayat
25 October 2003	Killing of Michael Marshall
13 December 2003	Killing of Graham Kinniburgh
23 March 2004	Killing of Andrew Veniamin
30 March 2004	Killing of Lewis Moran

12 April 2004	Disappearance of Terrence Blewitt
8 May 2004	Killing of Lewis Caine
16 May 2004	Killing of Terrence and Christine Hodson
6 February 2006	Killing of Mario Condello
26 March 2006	Discovery of the body of Lee Torney

Establishment of Purana Taskforce

Drawing Connections between the Gangland Murders

402. In February 2003, Mr Overland was appointed as Assistant Commissioner Crime, Victoria Police.⁴⁹⁷ In this role, he had direct line responsibility for the operation of the Crime Department and the management of major crime investigation across Victoria.⁴⁹⁸
403. Victoria Police had started to 'join the dots' and identify that many of the murders were connected to a factional war between rival gangs in Melbourne. At the time there remained a dearth of intelligence to understand the identities, the motivations and drivers behind the murders.⁴⁹⁹
404. At this time, the investigation of major crimes by Victoria Police was split into divisions including the Major Drug Investigation Division (MDID), the Serious Crime Investigation Division, the Violent Crime Investigation Division, and the Major Fraud Investigation Division. It was believed that organised crime groups were exploiting Victoria Police's siloed approach to policing that was standard practice at the time.⁵⁰⁰
405. On 12 May 2003, as a response to the escalation of the violence, Victoria Police established the Purana Taskforce (Purana), which drew resources from the Crime Department and across Victoria Police and aimed to disable the criminal syndicates that were responsible for these murders.⁵⁰¹

Oversight of Purana

406. Purana was overseen by an 'Executive Management Team' which was generally provided weekly written and verbal briefings by the OIC of Purana. In 2003 to 2004, these briefings were primarily attended by:⁵⁰²
- the Assistant Commissioner of Crime, Mr Simon Overland
 - the Commander of the Crime Department, Mr Terry Purton

⁴⁹⁷ Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 7 [34], COM.0014.0001.0001 at .0007.

⁴⁹⁸ Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 7 [34], COM.0014.0001.0001 at .0007.

⁴⁹⁹ Exhibit RC1256, Statement of Mr Richard Grant, 28 November 2019, 3-4 [18], VPL.0014.0103.0001 @.0003-4.

⁵⁰⁰ Exhibit RC1256, Statement of Mr Richard Grant, 28 November 2019, 3 [17], VPL.0014.0103.0001 @.0003.

⁵⁰¹ Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 10 [52], COM.0014.0001.0001 @.0007.

⁵⁰² Exhibit RC915, Statement of Mr Simon Overland, 19 September 2019, 11 [57], COM.0014.0001.0001 @.0011.

- the Superintendent of the Violent Crime Investigation Division of the Crime Department, Mr John Whitmore
 - the Inspector and OIC of the Purana Taskforce, Mr Andrew Allen
 - the Acting Inspector or Detective Senior Sergeants of the Purana Taskforce, Messrs Gavan Ryan and Philip Swindells.
407. On occasions Crew Sergeants were invited to attend these briefings to explain a particular incident or issue.
408. Mr Overland said that he was briefed on the key issues being faced by Purana, including the murders of gangland identities, the arrests of persons charged with these acts, media management, resourcing issues and the consideration of the overall strategy for the Taskforce, rather than being involved in detailed operational matters.⁵⁰³
409. Mr Overland said that because of the significance of the matters being investigated by Purana, and the growing public and political concerns about the events, he had a greater level of awareness and view of Purana than many other investigations under his command.⁵⁰⁴

The First Phase of Purana

410. Purana had been established at a time when the gangland murders were not in the wider public consciousness or the subject of any extensive media reporting. Initially Purana was tasked with the investigation of three unsolved homicides, being the murders of Mr Dino Dibra, Mr Paul Kallipolitis and Mr Nikolai Radev over the course of 2000 to early 2003.
411. On 21 June 2003 Mr Jason Moran and his associate Mr Pasquale Barbaro were shot in broad daylight when sitting in the front seats of a van parked near the Cross Keys Hotel in Essendon following an AusKick football clinic. Five children were sitting in the back seat. The Commission heard from many witnesses that from this time, public and political awareness and concern about the gangland wars increased, as did the scrutiny and pressure upon those within Victoria Police charged with putting a stop to the growing body count. Significant resources were added to Purana as a result.
412. A further significant murder occurred on 25 October 2003 when Mr Michael Marshall was murdered. He was shot five times outside his home in South Yarra in front of his young son. At the time of this murder, Victoria Police had a listening device operating in the car being driven by the killers, and recorded the murder occurring. The killers were in custody by the end of the day.
413. The arrest of Mr Williams on █ June 2004 for █ largely brought to a halt the string of gangland murders.⁵⁰⁵

⁵⁰³ Exhibit RC981 Supplementary Statement of Mr Simon Overland, 17 January 2020, 6 [28]-[29], VPL.0014.0067.0077 @.0082.

⁵⁰⁴ Exhibit RC981 Supplementary Statement of Mr Simon Overland, 17 January 2020, 6 [28]-[29], VPL.0014.0067.0077 @.0082.

⁵⁰⁵ Transcript of Mr Simon Overland, 16 December 2019, 11334, RC_MPI_16Dec19_provisional.; Exhibit RC1750 Purana Taskforce Update, 21 June 2004, 1, VPL.0100.0012.0103.

414. After the arrest of Mr Williams in mid-2004, the Purana Taskforce began to focus on dismantling the manufacture and trade of drugs in Victoria, which was considered to have fuelled the murders.⁵⁰⁶ Phase two of Purana (also known as Operation Posse) is outlined in later chapters of these submissions.

Purana Strategy

415. A key strategy developed by Purana was to gather intelligence to identify members of gangland criminal networks and opportunities to target their weaknesses so that those people when arrested and charged with serious criminal offences were susceptible to being convinced to provide evidence against co-accused or more significant criminals, particularly those involved in the murders.⁵⁰⁷

416. Using this approach, notorious, violent and dangerous criminals agreed to testify against others. Mr Overland said that this ultimately led to the conviction of Mr Carl Williams for the murder of Mr Michael Marshall, the importance of which cannot be understated.

417. Mr Overland also pointed out in his statement to the Commission:

*All such undertakings under my leadership were done with the full knowledge and agreement of the then Director of Public Prosecutions, Mr Paul Coghlan QC and primarily Senior Crown Prosecutor Mr Geoff Horgan QC. Successful prosecutions were brought and secured largely on the basis of evidence from criminal co-accused, which as the Commission would be aware, raises complex evidentiary and ethical issues at trial and in sentencing.*⁵⁰⁸

418. It is submitted that it would seem sensible for Mr Overland to move cautiously when utilising co-accused as witnesses, as such evidence is often the subject of significant challenge in any criminal trial. As a matter of common sense, any question concerning the prosecution of individuals which involves complex evidentiary issues at trial should be the subject of careful consideration and consultation with legal advisors, such as the Director of Public Prosecutions (DPP) who was quite apparently available to Mr Overland to consult.

419. That is particularly so in circumstances in which rash or ill-considered decisions could have significant consequences such as the exclusion of evidence, or the potential for wrongful convictions followed by successful appeals and potential retrials. It should be borne in mind, that the cases that Mr Overland and Purana were dealing with, both in the investigation of murders and major drug trafficking were some of the most serious criminal offences that could be prosecuted, often carrying life imprisonment.

420. It could be said with certainty, that to utilise a defence barrister with professional and apparent (to Purana at the time) social connections with

⁵⁰⁶ Transcript of Mr Simon Overland, 16 December 2019, 11334 – 11335, RC_MPI_16Dec19_provisional.

⁵⁰⁷ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 12 [60]-[62], COM.0014.0001.0001 @.0012; Transcript of Mr Simon Overland, 16 December 2019, 11334, RC_MPI_16Dec19_provisional.

⁵⁰⁸ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 12 [63], COM.0014.0001.0001 @.0012.

the people who were the targets or subjects of Purana's investigations and prosecutions, as an informer against those people, as part of a strategy to convict them, would likewise raise complex evidentiary issues at trial.

421. It would be expected that, at the very least, before evidence that had been obtained through that investigatory plan was put into a hand-up-brief, that there would be consultations with a lawyer.
422. Further, even before such an investigatory undertaking was commenced, it would have been prudent to consult a lawyer to determine whether the sorts of complex evidentiary and ethical issues might arise.
423. Mr Overland has given evidence that when he learned that Ms Gobbo was to become a registered human source, he immediately saw the issues, including the potential for miscarriages of justice,⁵⁰⁹ and yet, he did not seek legal advice⁵¹⁰, but rather relied upon his investigators to act in accordance with their experience and training.⁵¹¹

424. On the evidence, it is open to the Commissioner to find that when Mr Overland became aware of the proposed use of Ms Gobbo as a human source, he should have ensured that legal advice concerning her proposed use was obtained from the DPP, a lawyer within Victoria Police or the Victorian Government Solicitors Office. It is submitted that Mr Overland should have done so whether or not he expected that Ms Gobbo would provide information in relation to people she had represented or was representing.

⁵⁰⁹ Transcript of Mr Simon Overland, 23 January 2020, 12294 – 12295.

⁵¹⁰ Transcript of Mr Simon Overland, 16 December 2019, 11315, RC_MPI_16Dec19_provisional.

⁵¹¹ Transcript of Mr Simon Overland, 16 December 2019, 11332, RC_MPI_16Dec19_provisional.

CHAPTER 7 – CASE STUDY: MR THOMAS (A PSEUDONYM) & THE PURANA TASKFORCE

Introduction

425. The submissions in this chapter focus on Ms Gobbo's developing relationship with the Purana Taskforce and her eventual use by that Taskforce in its investigations of execution murders that had been committed by Mr Carl Williams and his associates, including Mr Thomas.
426. A number of other significant events occurred during this time frame which provide some perspective to these and other matters being dealt with by the Commission. They are set out in summary form here.

Part 1 – Summary of Purana Taskforce

427. As dealt with earlier in these submissions, the Purana Taskforce was established in 2003 to deal with the spate of murders occurring in Melbourne's underworld.
428. In the early 2000s Ms Gobbo developed relationships with significant players in the sphere of organised crime, including Messrs Carl and George Williams, members of the Mokbel family, and associates of both of these, including Mr Cooper and Mr Thomas.
429. Ms Gobbo provided legal representation to several people from this sphere, including all four of the Mokbel brothers, Messrs Carl and George Williams, Mr Thomas, Mr Cooper, Mr Andrews and Mr McGrath.
430. In the process, Ms Gobbo's relationship developed from being a person of interest to Purana to being an asset to their cause.

Part 2 – Summary of the Case of Mr Thomas

431. On 21 June 2003, Messrs Jason Moran and Pasquale Barbaro were murdered at the Cross Keys Reserve in Pascoe Vale.⁵¹²
432. On 16 August 2004, following an extensive investigation, Mr Thomas was arrested and charged with having murdered the two men.⁵¹³ On the same day, Messrs Carl Williams and Andrews were served with direct presentments, charging them as co-accused with the same murders.⁵¹⁴

⁵¹² [REDACTED].

⁵¹³ [REDACTED]; Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 2 [10], VPL.0014.0036.0001 @.0002: Police officers Mr Bateson, Mr Hatt and Mr L'Estrange were present at the arrest.

⁵¹⁴ [REDACTED]. Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 2 [12], VPL.0014.0036.0001 @.0002; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 11 [64], VPL.0014.0027.0001 @.0011. Messrs Carl Williams and Andrews were also facing charges for the murder of Michael Marshall.

433. On 30 August 2004, the DPP, Mr Paul Coghlan QC, commenced trial proceedings by filing a direct presentment in the Supreme Court. That was an unorthodox way in which to commence such proceedings, as it deprived the three accused of the ordinary process of a committal proceeding before the Magistrates' Court prior to trial.⁵¹⁵
434. In December 2004, in response to the direct presentment, Mr Thomas and his co-accused made an application for an order that the trials be stayed pending the hearing and conclusion of committal proceedings.⁵¹⁶ That application was granted.⁵¹⁷
435. As a result, in March 2005, committal proceedings were conducted before the Magistrates' Court, at the conclusion of which the three accused were committed for trial before the Supreme Court.⁵¹⁸
436. In June 2006, following a lengthy period of negotiations, Mr Thomas and the Crown formally entered into an agreement whereby Mr Thomas would agree to co-operate with and assist the authorities, in exchange for the Crown agreeing to proceed with only one charge of murder in relation to Mr Jason Moran and to concede that he should receive a discounted sentence.⁵¹⁹ Mr Thomas subsequently made several statements implicating numerous persons in criminal activities.⁵²⁰ Mr Thomas also gave evidence for the Crown in several prosecutions, including that of Mr Faruk Orman in which he was convicted of the murder of Mr Victor Peirce.⁵²¹
437. On 29 June 2006, pursuant to the plea agreement, Mr Thomas was arraigned on and pleaded guilty to a single charge of the murder of Mr Moran.⁵²²
438. On 11 September 2006, a plea hearing took place before the Supreme Court.⁵²³ For the purposes of the plea, the prosecution case against Mr

⁵¹⁵ [REDACTED].

⁵¹⁶ [REDACTED].

⁵¹⁷ [REDACTED].

⁵¹⁸ Exhibit RC1892 Transcript of Ruling Proceedings, [REDACTED], 3, OPP.0038.0001.0003 @.0036.

⁵¹⁹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 15 [89]–[92], VPL.0014.0027.0001 @.0015; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 30, VPL.0015.0001.0409 @.0438; Exhibit RC0273 Ms Nicola Gobbo diary, 16 June 2006, 19, MIN.0005.0003.0212 @.0230 Ms Nicola Gobbo's records: "St Kilda Rd – Purana", Cf. Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 3 [14], 4 [24], VPL.0014.0036.0001 @.0003, @.0004; (February 2006)], 4 [25] @.0004 (statements being made in July 2006). Cf. Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 10 [61], 13 [78], [VPL.0014.0027.0001] @.0010, .0013.

⁵²⁰ See, eg, Exhibit RC0650 Statement of Mr Thomas (extract), 19 July 2006, 110, RCMPI.0028.0001.0001 @.6111; Exhibit RC0651 Statement of Mr Thomas, 2 May 2008 (extract), RCMPI.0028.0001.0001 @.0134; Exhibit RC0330, Statement of Mr Thomas, 19 July 2006, OPP.0002.0007.0200.

⁵²¹ [REDACTED].

⁵²² Exhibit RC1874 Transcript of Arraignment Proceedings, *R v EJC* (Supreme Court of Victoria, Eames J, 29 June 2006), 1-13, OPP.0038.0001.0003 @.0047-.0060; Exhibit RC1852 Presentment No. C0404098.1, [REDACTED], 2, OPP.0038.0001.0003 @.0023; Exhibit RC1861 Reasons for Sentence [REDACTED], 2 [1]–[2], COR.1000.0004.0001 @.0002.[restricted].

⁵²³ [REDACTED].

Thomas was that he had counselled and procured the murder of Mr Jason Moran, including by having:⁵²⁴

- 438.1. supplied one of the weapons, a shotgun, that was used in the murder
 - 438.2. supplied information as to Mr Jason Moran's whereabouts, so that he could be killed by Mr Andrews, assisted by Mr McGrath
 - 438.3. agreed to assist Mr Carl Williams by providing an alibi for the time of the murder.⁵²⁵
439. Moreover, the Crown accepted, for the purposes of the plea, that Mr Thomas' target in the attack was Mr Moran, and that Mr Barbaro was 'an unintended victim' in the incident.⁵²⁶
440. On 27 September 2006, Mr Thomas was sentenced for the murder to 23 years' imprisonment with a non-parole period of 12 years.⁵²⁷ As part of the sentencing exercise, the Court took into account the assistance that Mr Thomas had provided (and undertook to continue to provide⁵²⁸) to the authorities.⁵²⁹ In particular, in sentencing Mr Thomas, the sentencing judge noted the following matters in relation to his assistance:
- 440.1. Mr Thomas had, by the date of sentence, made ■ statements, which the judge described as 'undoubtedly important and highly relevant ... [and] wide ranging'.⁵³⁰
 - 440.2. Mr Thomas had provided, and undertook to continue to provide, co-operation which was described as 'extensive, important and effective co-operation relating to the highest level of violent drug-related and organised crime'.⁵³¹
 - 440.3. Mr Bateson, the officer-in-charge of the case and investigation, gave evidence in which it had emerged that –
 - the ■ statements were 'the result of three weeks' hard work' and 'many meetings' with police, during which Mr Thomas was 'totally co-operative'.⁵³²

⁵²⁴ Exhibit RC1861 Reasons for Sentence ■ [2], COR.1000.0004.0001 @.0002. [restricted].

⁵²⁵ ■ [3]. Exhibit RC1846 Opening of Plea – Thomas (undated) 65-66 [3], OPP.00038.0001.0003 @.0065-.0066. He also assisted Mr Williams in maintaining Mr Andrews in an apartment prior to the murder and subsequently as part payment for the murder; Exhibit RC1873 Summary of Prosecution Opening, *R v Williams, Andrews & Thomas*, 30 January 2006, 6 [26], OPP.0038.0001.0003 @.0080.

⁵²⁶ Exhibit RC1861 Reasons for Sentence ■, 2 [3], COR.1000.0004.0001 @.0002. [restricted]

⁵²⁷ Exhibit RC1746 OPP Memorandum from Mr David Bosso to Mr John Champion Re: Thomas, 30 August 2012, 2, OPP.0002.0002.0269 @.0270.

⁵²⁸ Exhibit RC1861 Reasons for Sentence ■, 2-3 [4], 12 [44], 13 [47], COR.1000.0004.0001 @.0002-.0003, .0012, .0013. [restricted]

⁵²⁹ Exhibit RC1861 Reasons for Sentence ■, 2-4 [4]-[8], 12 - 13 [44]-[47], COR.1000.0004.0001 @.0002-.0004, .0012, .0013. [restricted]

⁵³⁰ Exhibit RC1861 Reasons for Sentence ■, 3 [3], COR.1000.0004.0001 @.0003. [restricted]

⁵³¹ Exhibit RC1861 Reasons for Sentence ■, 12 [44], COR.1000.0004.0001 @.0012. [restricted]

⁵³² Exhibit RC1861 Reasons for Sentence ■, 3-4 [6], COR.1000.0004.0001 @.0003-.0004. [restricted]

- the statements were ‘extensive and comprehensive’, and ‘exceedingly valuable’ to the authorities⁵³³
 - Mr Thomas’ ‘co-operation beyond the statements was also ... very significant’
 - the information provided by Mr Thomas ‘related to numerous organized crime figures, ... revealed high scale organised crime, violence and drug dealing ... [and was] of extreme importance to Victoria Police’.⁵³⁴
441. On account of his assistance to authorities and his undertaking to give further assistance, the judge imposed a less severe sentence than otherwise.⁵³⁵
442. Following his sentence, Mr Thomas’ evidence was used as part of the prosecution case in obtaining convictions against the following persons.

⁵³³ Exhibit RC1861 Reasons for Sentence [REDACTED], 3-4 [6], COR.1000.0004.0001 @.0003-.0004. [restricted]

⁵³⁴ Exhibit RC1861 Reasons for Sentence [REDACTED], 3-4 [6], COR.1000.0004.0001 @.0003-.0004. [restricted]

⁵³⁵ Exhibit 1861 Reasons for Sentence [REDACTED], 13 [47], COR.1000.0004.0001 @.0013. [restricted]

Part 3 – Summary of Ms Gobbo’s Representation of Mr Thomas

443. Between 2002 and 2007, Ms Gobbo acted for and advised Mr Thomas (or purported to do so) in relation to numerous legal proceedings.⁵³⁶ During this period, there was also a social aspect to their relationship.⁵³⁷
444. In particular, Ms Gobbo acted for and advised Mr Thomas throughout the Jason Moran murder proceedings, including on the following occasions:
- 444.1. On 4 July 2003, Ms Gobbo accompanied Mr Thomas in attending to meet with Mr Bateson.⁵³⁸
- 444.2. On 16 August 2004, upon his arrest and prior to his record of interview, Mr Thomas contacted and received advice from Ms Gobbo.⁵³⁹

⁵³⁶ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 9 October 2002, 27 November 2002, 3 June 2003, 36, OPP.0001.0004.0025 @.0060; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 7 December 2004, 14 December 2004, 51, OPP.0001.0004.0025 @.0075; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 30 June 2005, 55, OPP.0001.0004.0025 @.0079; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 8 September 2005, 29 June 2006, 55, OPP.0001.0004.0025 @.0079; Exhibit RC1568 Ms Nicola Gobbo fee book 01, 6 June 2003, 63, MIN.5000.7000.0001 @.0063; Exhibit RC1568 Ms Nicola Gobbo fee book 01, 5 May 2004, 75, MIN.5000.7000.0001 @.0075; Exhibit RC1568 Ms Nicola Gobbo fee book 01, 21 January 2005, 84, MIN.5000.7000.0001 @.0084; Exhibit RC1568 Ms Nicola Gobbo fee book 01, 9 May 2006, 95, MIN.5000.7000.0001 @.0095; Exhibit RC1568 Ms Nicola Gobbo fee book, 21 September 2006, 99, MIN.5000.7000.0001 @.0099; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 11, VPL.0015.0001.0409 @.0419; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 14, VPL.0015.0001.0409 @.0422; Exhibit RC0273 Ms Nicola Gobbo court book, 11 September 2002, 4, MIN.0001.0010.0006 @.0020; Exhibit RC0273 Ms Nicola Gobbo diary, 3 June 2003, 14, MIN.0005.0003.0133 @.0146; Exhibit RC0273 Ms Nicola Gobbo diary, 20 February 2004, 12, MIN.0002.0002.0002 @.0012; Exhibit RC0273 Ms Nicola Gobbo diary, 28 April 2004, 22, MIN.0002.0002.0002 @.0022; Exhibit RC0273 Ms Nicola Gobbo diary, 31 August 2004, 40, MIN.0002.0002.0002 @.0040; Exhibit RC0273 Ms Nicola Gobbo diary, 6 September 2004, 41, MIN.0002.0002.0002 @.0041; Exhibit RC1163 Memorandum to Counsel from Valos Black (Nicola Gobbo) to Colin Lovitt, 18 February 2005, 6, MIN.5000.0002.4504 @.4509: “In December 2004 he was represented by Ms Gobbo at the Australian Crime Commission wherein, again, approaches were made to Counsel for him to roll over on Williams.” See also Exhibit RC1878 Transcript of Hearing of Mr Thomas, 6 September 2004 OPP.0002.0003.0844 [restricted]; Exhibit RC0273 Ms Nicola Gobbo Court Book, 25 January 2005, MIN.0001.0011.0001 @.0008; Exhibit RC0273 Ms Nicola Gobbo Court book, 1 February 2005, MIN.0001.0011.0001 @.0008; Exhibit RC0273 Ms Nicola Gobbo Court Book, 6 September 2004, 101, MIN.0001.0014.1130 @.1230; Exhibit RC0273 Ms Nicola Gobbo Court Book, 9 September 2004, 108, MIN.0001.0014.1130 @.1237.

⁵³⁷ See, eg, Exhibit RC0273 Ms Nicola Gobbo diary, 7 June 2003, 14, MIN.0005.0003.0133 @.0146: ‘7pm Shark Finn Thomas’ Family Member’s b’day’; [REDACTED] 2003, 21, MIN.0005.0003.0133 @.0153: ‘Lunch – Thomas & Mr Thomas’ personal partner’; 11 December 2003, 52, MIN.0002.0002.0001 @00052: ‘Thomas’ B’day’; [REDACTED] 2004, MIN.0002.0002.0002 @.0016: ‘Coffee Thomas’.

⁵³⁸ Commander Stuart Bateson accepted that Ms Gobbo appears to have been acting for Mr Thomas at that time: see Transcript of Commander Stuart Bateson, 2 July 2019, 3345-3347, TRN.2019.07.02.01.C.

⁵³⁹ Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L’Estrange, 11 June 2019, 2 [11], VPL.0014.0036.0001 @.0002; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 11 [63], VPL.0014.0027.0001 @.0011: Mr Thomas originally sought to contact Mr Jim Valos, but as he was unavailable he nominated Ms Gobbo.

- 444.3. On 17, 23, and 27 September 2004, Ms Gobbo appeared on behalf of Mr Thomas in mention hearings before the Supreme Court,⁵⁴⁰ at which disclosure was being sought due to the Crown having directly presented Mr Thomas and his co-accused.⁵⁴¹
- 444.4. On 7 and 14 December 2004, Ms Gobbo appeared on behalf of Mr Thomas before the Supreme Court in a successful application for a stay of the trial proceedings until the determination of committal proceedings.⁵⁴²
- 444.5. In February 2005, Ms Gobbo assisted in the preparation of a detailed memorandum from Mr Thomas' solicitors, Valos Black & Associates, addressed to Mr Colin Lovitt QC, senior counsel then briefed to appear at Mr Thomas' upcoming committal hearing.⁵⁴³
- 444.6. A transcript of the committal hearing on 1 March 2005 indicates that Ms Gobbo appeared as junior counsel for Mr Thomas at his committal hearing, however this appears to be an error.⁵⁴⁴ Mr Lovitt, Mr Thomas, Ms Gobbo and her memorandum all indicate she did not make any appearance at the committal.
- 444.7. On 30 June 2005, Ms Gobbo appeared on his behalf at a mention before the Supreme Court.⁵⁴⁵
- 444.8. In September 2005, Ms Gobbo appeared before the Supreme Court on his behalf for a bail application, which was refused.⁵⁴⁶

⁵⁴⁰ See Exhibit RC1568 Ms Nicola Gobbo Fee Book 01, 21 January 2005, 84, MIN.5000.7000.0001 @.0084; Exhibit RC0273 Ms Nicola Gobbo diary, 17 September 2004, 42, MIN.0002.0002.0002 @.0042; Exhibit RC0273 Ms Nicola Gobbo diary, 23 September 2004, 43, MIN.0002.0002.0002 @.0043; Exhibit RC0273 Ms Nicola Gobbo court book, 23 September 2004, 6, MIN.0001.0014.0002 @.0121; Exhibit RC0273 Ms Nicola Gobbo diary, 27 September 2004, 44, MIN.0002.0002.0002 @.0044.

⁵⁴¹ Exhibit RC1881 Transcript of Mention Hearing, *R v Williams Andrews Thomas* (Supreme Court of Victoria, Justice Teague, 27 September 2004), RCMP1.0108.0002.0007.

⁵⁴² Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 7 December 2004, 14 December 2004, 51, OPP.0001.0004.0025 @.0075; Exhibit RC1568 Ms Nicola Gobbo fee book, 21 January 2005, 84, MIN.5000.7000.0001 @.0084; See Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 14-15, VPL.0015.0001.0409 @.0422-.0423; Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 3 [15], VPL.0014.0036.0001 @.0003; Exhibit RC0269 Statement of Stuart Bateson, 7 May 2019, 11 [66], VPL.0014.0027.0001 @.0011; [REDACTED]; Exhibit RC0273 Ms Nicola Gobbo diary, 7 & 14 December 2004, 54-5, MIN.0002.0002.0002 @.0054-.0055; Exhibit RC0273 Ms Nicola Gobbo court book, undated, 167, MINRC.0001.0014.0002 @.0167.

⁵⁴³ Exhibit RC1163 Memorandum to Counsel from Valos Black (Nicola Gobbo) to Mr Colin Lovitt, 18 February 2005, MIN.5000.0002.4504. NB: The memorandum notes, inter alia, at 10 (@.4513) that 'given her previous involvement in acting for McGrath up until the time that he became a Crown witness we do not view it as appropriate if she appears at the Committal although she maintains a brief in this matter.' It also states at 5 (@.4508): 'Under no circumstances will Thomas entertain any deal whatsoever.'

⁵⁴⁴ Exhibit RC1888 Transcript of Proceedings, *The Police v Carl Williams, Andrews & Thomas*, (Melbourne Magistrates' Court, Magistrate Gray, 1 March 2005), 1, OPP.0041.0001.0001 @.0029; Exhibit RC1163 Memorandum to Counsel from Valos Black & Associates to Colin Lovitt, Friday 18 February 2005, 10, MIN.5000.0002.4504 @.4513.

⁵⁴⁵ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 30 June 2005, 55, OPP.0001.0004.0025 @.0079; Exhibit RC0273 Ms Nicola Gobbo court book, 30 June 2005, 22, MIN.0001.0011.0003 @.0022; See also Exhibit RC1176 Statement of Mr Thomas, 6 February 2020, 2-3 [8], RCMP1.0131.0001.0001 @.0002-.0003.

⁵⁴⁶ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 8 September 2005, 55, OPP.0001.0004.0025 @.0079; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 12 [72], VPL.0014.0027.0001 @.0012.

- 444.9. In June and July 2006, Ms Gobbo engaged in negotiations with Victoria Police and the Crown in relation to the resolution of Mr Thomas' case and his provision of assistance to police.⁵⁴⁷
- 444.10. On 29 June 2006, Ms Gobbo appeared on Mr Thomas' behalf upon his arraignment before the Supreme Court, when he entered a plea of guilty.⁵⁴⁸
- 444.11. On 13 July 2006, during the period that Mr Thomas was making statements for Victoria Police, Ms Gobbo attended the Victoria Police Centre with him.⁵⁴⁹
- 444.12. On 12 August 2006, Ms Gobbo provided a memorandum to senior counsel briefed to appear on behalf of Mr Thomas at his pending plea hearing, purporting to set out 'background, details and instructions' in relation to Mr Thomas.
445. More generally, between 2004 and 2006, the period during which the murder proceedings were extant, Ms Gobbo regularly conducted 'professional' visits and phone calls to Mr Thomas in prison.⁵⁵⁰ In his statement to the Commission, Mr Thomas says he 'trusted Gobbo completely'.⁵⁵¹
446. While Ms Gobbo was originally briefed to appear on Mr Thomas' behalf in his plea hearing, he was ultimately represented by a different barrister.⁵⁵²

⁵⁴⁷ See Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 15 [91]-[92], 16 [94], VPL.0014.0027.0001 @.0015 - .0016.

⁵⁴⁸ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 29 June 2006, 55, OPP.0001.0004.0025 @.0079; Exhibit RC1874 Transcript of Arraignment Proceedings, *R v EJC* (Supreme Court of Victoria, Eames J, 29 June 2006), 1-13, OPP.0038.0001.0003 @.0047-.0060; Exhibit RC0281 ICR3838 (036), 29 June 2006, 346, VPL.2000.0003.1932; NB: Jim Valos appeared for Mr Thomas at a directions hearing on or about 8 July 2005: Transcript of Proceedings, [REDACTED], OPP.0038.0001.0003 @.0034-.0060.

⁵⁴⁹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 16 [96], VPL.0014.0027.0001 @.0016.

⁵⁵⁰ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, CNS.0001.0003.0037; Exhibit RC0273 Ms Nicola Gobbo diary, 5 September 2004, MIN.0002.0002.0002 @.0040; Exhibit RC0273 Ms Nicola Gobbo court book, 5 September 2004, 97, MINRC.0001.0014.0002 @.0097; Exhibit RC0273 Ms Nicola Gobbo court book, 30 November 2004, 157, MINRC.0001.0014.0002 @.0157; Exhibit RC1571 Archive Visit Enquiry for Mr Thomas, 30 November 2004, CNS.0001.0003.0962; Exhibit RC1571 Archive Visit Enquiry for Mr Carl Williams, 30 November 2004, CNS.0001.0003.0964; Exhibit RC1571 Archive Visit Enquiry For Mr Thomas, 16 February 2005, CNS.0001.0003.1018; Exhibit RC1571 Archive Visit Enquiry for Mr Thomas, 5 December 2006, CNS.0001.0003.1202; Exhibit RC1571 Archive Visit Enquiry for Mr Thomas, 3 January 2006, CNS.0001.0003.1204; Exhibit RC1571 Archive Visit Enquiry for Mr Thomas, 19 March 2006, CNS.0001.0003.1218; Exhibit RC1571 Archive Visit Enquire for Mr Thomas, 22 April 2006, CNS.0001.0003.1220; Exhibit RC1571 Archive Visit Enquiry for Mr Thomas, 26 June 2006, CNS.0001.0003.1264; Exhibit RC1571 Archive Visit Enquiry, 21 July 2006, CNS.0001.0003.1272; Exhibit RC1571 Archive Visit Enquiry, 28 July 2006, CNS.0001.0003.1280; Exhibit RC1571 Archive Visit Enquiry, 13 August 2006, CNS.0001.0003.1294; Exhibit RC1571 Archive Visit Enquiry, 3 September 2006, CNS.0001.0003.1300; Exhibit RC1571 Archive Visit Enquiry, 13 November 2006, CNS.0001.0003.1318; Exhibit RC1571 Archive Visit Enquiry, 22 December, 22 December 2006, CNS.0001.0003.1324; Exhibit RC1568 Ms Nicola Gobbo fee book, 21 January 2005, 84, MIN.5000.7000.0001 @.0084.

⁵⁵¹ Exhibit RC1176 Statement of Mr Thomas, 6 February 2020, 3 [13], RCMP1.0131.0001.0001 @.0003.

⁵⁵² Exhibit RC1163 Memorandum from Ms Nicola Gobbo to Mr Colin Lovitt Q.C., 18 February 2005, 2, MIN.5000.0002.4504 @.4505.

Despite that, as noted, she did provide that barrister with a memorandum setting out her views on the matter.⁵⁵³

447. In the course of her representation of Mr Thomas in the murder proceedings, Ms Gobbo rendered and received some \$18,727 in professional fees.⁵⁵⁴
448. Finally, following Mr Thomas having been sentenced in September 2006, it appears that Ms Gobbo continued to act for and advise Mr Thomas until approximately August 2008.⁵⁵⁵

Part 4 – Development of the Relationship between Purana and the Use of Gobbo as an Informer Continued

Summary of Gobbo Involvement with Thomas

449. Some background in relation to Ms Gobbo's relationship with Mr Thomas is found in Chapter 5 of these submissions.
450. In June 2003, Mr Williams procured the murders of Mr Jason Moran and Mr Pasquale Barbaro with Mr Thomas' help. Mr Andrews and Mr McGrath carried out the murders.
451. In October 2003, Mr Williams procured the murder of Mr Michael Marshall, which was again carried out by Mr Andrews and Mr McGrath.
452. Following these events, Ms Gobbo used her position as a barrister in the following ways:
- 452.1. she visited Mr Andrews in custody in October 2003 and took instructions
 - 452.2. she took on representation of Mr McGrath in November 2003 and continued to represent him as he considered becoming a witness for the Crown
 - 452.3. she negotiated with the Crown on Mr McGrath's behalf to resolve charges brought against him in return for becoming a witness for the Crown against a number of people for whom she had acted, and/or continued to act for, including Mr Thomas, Mr Carl Williams, Mr Andrews
 - 452.4. she assisted Mr McGrath and police by suggesting 'edits' to a statement Mr McGrath had made which strengthened the case that the Crown sought to bring against Mr Carl Williams and Mr Andrews for the murder of Michael Marshall

⁵⁵³ Exhibit RC1805 Victoria Police summary of extracts re Mr Thomas, VPL.5000.0001.0001 @.0133; Exhibit RC0281 ICR3838 (041), 12 August 2006, 391 VPL.2000.0003.1977 "Preparing Thomas' pleas material, 11 pages so far."; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 15 July 2008, 52, VPL.0015.0001.0409 @.0460.

⁵⁵⁴ See Fee book references. [Cf. Exhibit RC1176 Statement of Mr Thomas, 6 February 2020, 5 [18], RCMP1.0131.0001.0001 @.0005].

⁵⁵⁵ Exhibit RC0281 ICR3838 (046), 440, VPL.2000.0003.2026; Exhibit RC1176 Statement of Mr Thomas, 6 February 2020, 6 [25], RCMP1.0131.0001.0001 @.0006.

- 452.5. when Mr Thomas was arrested and charged in August 2004 as a consequence of a statement made by Mr McGrath, she then acted for him without disclosing to him the extent of her dealings with Mr McGrath, or her role in having Mr McGrath implicate Mr Thomas in the charge he faced, and Purana investigators assisted Ms Gobbo in concealing that role from her client
- 452.6. in 2006, as a registered police informer, she purported to act for Mr Thomas, but without his knowledge was conniving with Purana detectives and her SDU handlers to encourage Mr Thomas to plead guilty and assist police by making statements against other people, including Mr Faruk Orman
- 452.7. when Mr Orman was arrested in June of 2007 as a consequence of a statement made by Mr Thomas, she purported to act for Mr Orman, whilst at the same time, conniving with Purana detectives and her SDU handlers to make sure that Mr Thomas gave evidence against Mr Orman. Mr Orman was ultimately convicted of murder, and he served 12 years in prison before being recently acquitted on the basis that his trial had miscarried because of Ms Gobbo's and Victoria Police's conduct.
453. Ms Gobbo represented Mr Thomas even though her own interests were diametrically opposed to Mr Thomas'. She wanted the information regarding her involvement in the statement making process to remain concealed, for the sake of her own safety as well as her capacity to maintain the trust of her clients and connections in the organised crime sphere.
454. Members of Victoria Police were aware of Ms Gobbo's conflicted positions as referred to above. It is submitted that the evidence demonstrates that no steps were taken to prevent her acting for Mr Thomas in circumstances where she could not properly represent his interests, not simply by the failure to disclose her role concerning Mr McGrath, but her role as a human source/agent for Victoria Police.
455. Given the information held by Victoria Police; in particular by the officers in the Purana taskforce and in the SDU and respective hierarchies, it is submitted that it should have been apparent to them that their utilisation of Ms Gobbo as a human source whilst she purported to represent Mr Thomas may have created a risk of a miscarriage of justice.
456. In the circumstances, a question arises as to why Ms Gobbo was not prevented from continuing to act as a barrister for Mr Thomas. It is submitted that Victoria Police could have instigated steps to prevent Ms Gobbo's ongoing representation of accused persons such as Messrs Thomas and Orman, however chose not to.
457. It is submitted that the reason that no such steps were taken is that from early to mid-2004 onwards, police had become aware that Ms Gobbo had the potential to be a useful ally to investigators, and she continued to be following her registration in September 2005.

Gobbo's Involvement at the time of the Moran Barbaro Murders

21 June 2003 – Murders of Jason Moran and Pasquale Barbaro

458. At 10.35 am on the morning of 21 June 2003 Mr Jason Moran and Mr Pasquale Barbaro were shot dead by a gunman wearing a balaclava whilst they were sitting in a van in the car park of the Cross Keys Hotel in Essendon.
459. Mr Carl Williams had procured the murder of Mr Moran, with the assistance of Mr Thomas. Mr Williams had requested Mr Andrews and Mr McGrath carry out the killing. Mr McGrath drove Mr Andrews to a location nearby the hotel, whereupon Mr Andrews left the car and made his way to the car park on foot where he shot Mr Moran and Mr Barbaro. Mr Barbaro was killed only because he happened to be in the car with Mr Moran.⁵⁵⁶
460. Prior to the murders, Mr Williams and Mr Thomas had taken steps to be demonstrably away from the scene at the time that the killings occurred, and to have the benefit of an alibi. At about 10.00am on 21 June 2003 they drove together to a medical clinic in Prahran, where they underwent a blood test.⁵⁵⁷
461. At around the time of the murders, and whilst engaged in the alibi activities, they were in telephone communication with Ms Gobbo who was then at Tullamarine airport waiting to board a flight to the United States.⁵⁵⁸
462. Ms Gobbo has given evidence that whilst waiting for her flight, there was a news report of the murders at a football clinic.⁵⁵⁹ Ms Gobbo also claimed that she received a call from Mr Thomas.⁵⁶⁰ According to Ms Gobbo, he called to ask if she had heard the news that Mr Moran had been murdered.⁵⁶¹ Ms Gobbo understood that Mr Thomas was with Mr Williams at the time of the telephone calls.⁵⁶²
463. Shortly after the murders, suspicion fell upon Mr Williams and his associates,⁵⁶³ including Messrs Thomas and Mokbel. On 23 June 2003, Mr Bateson spoke to Mr Williams and asked him about his whereabouts at the time of the murders. Mr Williams told Mr Bateson that he was in Prahran with Mr Thomas to have a blood test.⁵⁶⁴
464. Police investigated that alibi over the following days. Ms Gobbo gave evidence to the Commission that she was contacted by investigators from Victoria Police shortly after she returned from the United States. She understood them to be anxious to speak to her as soon as possible about

⁵⁵⁶ *R v Williams* [2007] VSC 131, [18]-[30].

⁵⁵⁷ *R v Williams* [2007] VSC 131, [28].

⁵⁵⁸ Exhibit RC0788 Transcript of Ms Nicola Gobbo, 11 April 2019, 922, Ms Gobbo and RCMP 11.04.2019.

⁵⁵⁹ Exhibit RC0788 Transcript of Ms Nicola Gobbo, 11 April 2019, 922, Ms Gobbo and RCMP 11.04.2019.

⁵⁶⁰ Transcript of Ms Nicola Gobbo, 5 February 2020, 13146, TRN.2020.02.05.01.P.

⁵⁶¹ Transcript of Ms Nicola Gobbo, 5 February 2020, 13148, TRN.2020.02.05.01.P.

⁵⁶² Transcript of Ms Nicola Gobbo, 5 February 2020, 13149, TRN.2020.02.05.01.P.

⁵⁶³ Transcript of Commander Stuart Bateson, 2 July 2019, 3344, TRN.2019.07.02.01.C.

⁵⁶⁴ Exhibit RC0272 Commander Stuart Bateson day book, 23 June 2003, 696, OPP.0040.0001.0001 @.0696.

communications that she had had with Mr Thomas on the morning of the murders.⁵⁶⁵

4 July 2003 – Gobbo Attends Thomas Interview by Bateson

465. On 4 July 2003, by arrangement with police, Mr Thomas voluntarily attended on Mr Bateson at St Kilda Road Police Station to assist in the investigation.⁵⁶⁶ He attended in the company of Ms Gobbo.⁵⁶⁷ It seems that Ms Gobbo had two purposes in attending. One was to provide Mr Bateson with information about communications that she had with Mr Thomas on the morning of the murders. The other purpose was to represent Mr Thomas in her capacity as his lawyer. Her evidence was that she understood that Mr Thomas was a person of interest in relation to the murders,⁵⁶⁸ and that he would not deal with police without a lawyer present.⁵⁶⁹
466. During the meeting, Mr Bateson was told that Mr Thomas made two telephone calls to Ms Gobbo on the morning of the murders. Mr Bateson recorded in his day book; 'two calls to Nicola; used car phone ...' the first at 10:26am and the second at 10:28am.⁵⁷⁰ It is to be noted that the time of the murders, according to the reasons of Justice King in sentencing Carl Williams was 10:35am.⁵⁷¹
467. Ms Gobbo said that she learned at or after her attendance with Mr Thomas upon Mr Bateson, that at the time of her phone calls Messrs Williams and Thomas were considered by police to have been engaged in conduct with a view to establishing an alibi.⁵⁷² Mr Thomas said in his statement to the Commission that: 'Williams and I had organised to donate blood on the day of the murder. On the way to the medical clinic we called Gobbo to further strengthen our alibi. A short time later she called back and told me that Jason Moran had been killed ... Anyway, she put the timing of my call and the shooting together and made me aware that she knew that she had been set up as an alibi'.⁵⁷³
468. Ms Gobbo's connection to these events made her a potential witness, although police did not take a statement from her.⁵⁷⁴ Much later, on 11 July 2006, when Mr Thomas was making a statement to the police, Ms Gobbo provided her telephone bills to Mr Bateson to 'sort it out'.⁵⁷⁵

469. On the evidence, it is open to the Commissioner to find that both Ms Gobbo and Mr Bateson knew that it was inappropriate, if not unethical, for Ms Gobbo to continue representing Mr Thomas in

⁵⁶⁵ Transcript of Ms Nicola Gobbo, 5 February 2020, 13148-13149, TRN.2020.02.05.01.P.

⁵⁶⁶ Exhibit RC272 Mr Stuart Bateson day book, 4 July 2003, 732, OPP.0040.0001.0001 @.0732.

⁵⁶⁷ Exhibit RC0273 Ms Nicola Gobbo diary, 7 July 2003, 17, MIN.0005.0003.0133 @.0149.

⁵⁶⁸ Transcript of Ms Nicola Gobbo, 5 February 2020, 13150, TRN.2020.02.05.01.P.

⁵⁶⁹ Transcript of Ms Nicola Gobbo, 5 February 2020, 13150, TRN.2020.02.05.01.P.

⁵⁷⁰ See Exhibit RC0272 Mr Stuart Bateson day book, 4 July 2003, 732-3, OPP.0040.0001.0001 @.0732-.0733.

⁵⁷¹ *R v Williams* [2007] VSC 131, [28].

⁵⁷² Transcript of Ms Nicola Gobbo, 7 February 2020, 13404, TRN.2020.02.07.01.P.

⁵⁷³ Exhibit RC1176 Statement of Mr Thomas, 6 February 2020, 7 [27], RCMP1.0131.0001.0001 @.0007.

⁵⁷⁴ Transcript of Commander Stuart Bateson, 19 November 2019, 9537, TRN.2019.11.19.01.C.

⁵⁷⁵ Exhibit RC0272 Commander Stuart Bateson diary, 11 July 2006, 309, RCMP1.0053.0001.0006 @.0309.

circumstances where it was reasonable to suppose that she might at some stage be required to testify about those phone calls.

21 June 2003 – Social Interactions between Gobbo and Mokbel

470. Another of Mr Williams' associates investigated in relation to the murders of Mr Moran and Mr Barbaro was Mr Tony Mokbel. On the day following the murders, Mr Bateson spoke to Mr Mokbel outside his family home in Brunswick and asked him about his movements the previous morning. Mr Bateson made a note of that discussion.⁵⁷⁶

471. Mr Mokbel told Mr Bateson that he had taken Ms Gobbo to Tullamarine Airport at 7:00am to 7:30am and then returned straight home. Mr Bateson submitted an IR on that day, which included the following summary of a conversation with Tony Mokbel:⁵⁷⁷

... At the front of this address was Tony Mokbel. We stopped and conversed with him about this investigation.

When asked about his whereabouts on the day of the murder he stated the following:

That he woke up at 7.00 to 7.30am at his home address. He was alone at this point. He then went and picked up his barrister Nicola Gobbo and conveyed her to the airport so she could catch a plane to Hawaii. He returned home at 8.00 to 8.30am and returned to bed.

472. In September of 2003 investigators tried to verify Mr Mokbel's claim by obtaining CCTV footage from the apartment block in which Mr Mokbel resided.⁵⁷⁸ By that stage, however, the footage had been taped over.⁵⁷⁹ At this time, Ms Gobbo resided in an apartment in Port Melbourne close to Mr Mokbel's apartment. Their respective apartment buildings shared car parking spaces. If police were interested in ascertaining whether Mr Mokbel's assertions were correct, they could have made inquiries of Ms Gobbo, although there is no evidence to suggest that this was ever done.⁵⁸⁰

473. In combination with the information about the telephone calls, Mr Mokbel's claim that he conveyed Ms Gobbo to the airport undoubtedly caused police to view Ms Gobbo with some suspicion.

2 July 2003 – Gobbo Becomes a Target of Purana Taskforce Investigations

474. On or about 2 July 2003, probably as part of the investigation into the murders of Mr Moran and Mr Barbaro, Ms Gobbo herself became a focus of police investigations. At some stage around that date Detectives from the

⁵⁷⁶ Exhibit RC0272 Commander Stuart Bateson day book, 23 June 2003, 690, OPP.0040.0001.0001 @.0690.

⁵⁷⁷ Exhibit RC0770, Information Report number IR036, 22 June 2003, VPL.0100.0142.0150.

⁵⁷⁸ Exhibit RC0281 ICR3838, (62) 18 January 2007, 607, VPL.2000.0003.2193: In April 2004 Ms Gobbo was living at an apartment in Port Melbourne and Tony Mokbel was living in the next block up the street. Their underground carparks joined and their allotted carparks were only four spaces apart.

⁵⁷⁹ Exhibit RC0770 Information Report number IR036, 22 June 2003, VPL.0100.0142.0150.

⁵⁸⁰ Transcript of Commander Stuart Bateson, 19 November 2019, 9534, TRN.2019.11.19.01.C.

Purana Taskforce determined to conduct surveillance on Ms Gobbo, who was suspected to be involved in the criminal activities of her clients.

475. Then [REDACTED] Pearce was at that time attached to the [REDACTED] the Purana Taskforce, which was responsible for managing requests for, and use of, covert investigation.⁵⁸¹ He was asked by investigators from the Purana Taskforce to arrange for surveillance to be carried out upon Ms Gobbo.
476. Mr Pearce prepared an 'application for assistance'⁵⁸² which identified the offence of murder as the investigative basis for making the application. The application included, amongst other matters, the following information:

Target Profile.

The target is a Barrister who acts for Tony MOKBEL and many other high-profile criminals including recently, Lewis MORAN, which resulted in threat to her welfare from Andrew VENIAMIN on behalf of Carl WILLIAMS. GOBBO's relationship with Tony MOKBEL and THOMAS is much more than just professional. She regularly spends her leisure time with both or either of them (gym and café's etc.) and arranges to meet at times of developments in homicide/ drug squad investigations.

Her last offence was use/possess amphetamine in 1993 and was considered to be a significant supplier of the drug at Melbourne University.

Nature of Assistance Required:

Photos/video of target meeting with MOKBEL and or THOMAS. Identify targets residential address/vehicle and other associates. Target is suspected of assisting MOKBEL and THOMAS in their drug trafficking activities and of providing those persons with information about the activities of other criminals in relation to the murders of Michael MARSHAL, Jason MORAN and Nick RADEV.⁵⁸³

477. The date of the document is 2 July 2003 (and metadata suggests that this is the date that the document was first created), however it was clearly updated over time, and contains reference to an event that occurred subsequent to that date, being the murder of Mr Michael Marshall on 25 October 2003. It may be that it was not actioned until after that murder as surveillance logs obtained by the Commission establish that Ms Gobbo was the target of covert surveillance on a number of occasions in November 2003, suggesting that the application was approved.⁵⁸⁴

⁵⁸¹ Exhibit RC1416 Statement of Officer Pearce, 14 February 2020, 2 [4], COM.0106.0001.0001 @.0002.

⁵⁸² This is a pro-forma document by which members of a crime department, in this case Purana, apply for covert investigative assistance in one form or another; in this case from the Crime Surveillance Unit.

⁵⁸³ Exhibit RC0472 Application for Assistance to Crime Surveillance Unit dated 2 July 2003, Crime Operation Purana, VPL.0100.0146.7685.

⁵⁸⁴ Exhibit RC1795 Surveillance Log, 10 November 2003, VPL.0100.0142.3039; Exhibit RC1795 Surveillance Log, 11 November 2003, VPL.0100.0142.3040; Exhibit RC1795 Surveillance Log, 12 November 2003, VPL.0100.0142.3044; Exhibit RC1795 Surveillance Log, 17 November 2003, VPL.0100.0142.5040.

478. It is submitted that it is likely that the Purana taskforce surveillance would have detected a number of interactions of a social nature between Ms Gobbo and Messrs Mokbel, Williams, and Thomas, given that entries in Ms Gobbo's diary indicate the following:
- 27 October 2003 – Diary records 'Jim/Thomas car thing' and later 'Tony'
 - 28 October 2003 – Diary records 'coffee – Mokbel' at 1:30pm
 - 31 October 2003 – Diary records 'Coffee (Tony)' at 6pm
 - 1 November 2003 – Diary records 'Coffee – Carl & Tony' at 8pm
 - 7 November 2003 – Diary records 'C/F Thomas'
479. Police who were investigating Mr Thomas and Mr Williams, presumably for the murders of Mr Moran and Mr Barbaro, were also monitoring conversations involving and concerning Ms Gobbo.
480. The foregoing leaves little doubt that members of the Purana Taskforce were well aware of Ms Gobbo's social relationship with Mr Mokbel and Mr Thomas.⁵⁸⁵

21 July and 22 September 2003 - Police Awareness of Threats to Ms Gobbo following Lewis Moran's Bail Application and Bail Variation

481. On 21 July 2003 Ms Gobbo represented Mr Lewis Moran in a successful bail application whereby Mr Moran was released subject to a curfew. The granting of bail drew media attention.⁵⁸⁶ Her conduct was seen by Mr Williams and those who moved in his circle as disloyal behaviour, because she was apparently viewed as being in the Mokbel/Williams 'camp'. Mr Williams regarded Mr Moran as his enemy, and Mr Williams therefore considered that Ms Gobbo should not have appeared for Mr Moran.⁵⁸⁷
482. Ms Gobbo's conduct was the subject of discussion in monitored telephone calls between Mr Williams and Mr Thomas. Through listening to these telephone calls, police learned that on about 25 July 2003, a few days after the bail application, a criminal associate of Mr Carl Williams, Mr Andrew Veniamin had appeared at Ms Gobbo's residence where he damaged property and made threatening statements to her.⁵⁸⁸ This threatening behaviour was dealt with 'in house' when Mr Thomas spoke to Mr Veniamin. Mr Veniamin's solicitor, Mr Brian Rolfe, also spoke to Mr Thomas about this

⁵⁸⁵ Transcript of Commander Stuart Bateson, 22 November 2019, TRN.2019.11.22.01.C; Exhibit RC1779 Assessment of events concerning deaths of Jason Moran and Pasquale Barbaro, VPL.0100.0144.1250 @.1263: 'Gobbo has been observed on numerous occasions in company with Williams and others at social events'; Exhibit RC0283 Information report 65, 14 August 2003, VPL.0100.0142.6092, Mokbel told police that he trains daily with Nicola Gobbo.

⁵⁸⁶ 'Father of murdered crime figure granted \$1m bail', *The Age*, (Melbourne, 22 July 2003). [publicly available]

⁵⁸⁷ Exhibit RC1798 Telephone log of Mr Thomas, 26, VPL.0099.0123.7258 @.0026.

⁵⁸⁸ Exhibit RC1798 Telephone log of Mr Thomas, 19-28, VPL.0099.0123.7258 @.0019-.0028; Exhibit RC0251 Statement of Mr Phillip Swindells, 6 May 2019, 6 [30], VPL.0014.0025.0001 @.0006; Exhibit RC0787 Transcript of Ms Nicola Gobbo, 20 March 2019, 195-196.

conduct. Mr Thomas subsequently brought Mr Veniamin to Ms Gobbo to apologise.⁵⁸⁹

483. Despite these threats, Ms Gobbo continued to represent Mr Moran, and appeared again on 22 September 2003 in an application to vary the conditions of his bail. This bail application was made because police considered the curfew to pose a risk to Mr Moran's safety.
484. Mr Phillip Swindells, who in 2003 was the first Detective Senior Sergeant in charge of the Purana Taskforce, gave evidence in support of the application and he happened to speak to Ms Gobbo following the application. Mr Swindells had formed the view in the formative stages of the Purana Taskforce that the cultivation of informers was one of the main investigative strategies that could be employed to break the code of silence that hampered the solving of gang killings.⁵⁹⁰
485. Mr Swindells informed the Commission that he recalls speaking with Ms Gobbo outside the Magistrates' Court following the bail variation hearing.⁵⁹¹ Mr Swindells initiated the discussion and told Ms Gobbo that he was aware she had been threatened by Mr Veniamin for representing Mr Moran and that she had been the victim of damage to property. Ms Gobbo told Mr Swindells that she would not make a formal report for fear of reprisal. She said she had made a statutory declaration detailing the threats against her which was stored in a safe. The purpose of this was to ensure that if she was killed, police would know who was responsible. Mr Swindells stated he raised the issue of the threat to convey that the Purana taskforce had extensive information, and he wanted her to feel comfortable to make disclosures to them so they could assist and investigate.
486. Mr Swindells also told Ms Gobbo that Mr Veniamin was the Purana Taskforce's first target, and they wanted to know as much as they could about him. Ms Gobbo told Mr Swindells that she was not interested in providing further information.⁵⁹² Mr Swindells left Ms Gobbo with the message that the 'door was always open for her to talk to us about the issues they had been discussing'.⁵⁹³
487. Ms Gobbo continued to act for Mr Moran after this point. She conferred with him and his senior counsel on 8 October 2003 and appeared for him at a special mention the following day.⁵⁹⁴

27 September 2003 – Dublin Street Burglary

488. In 2003 the MDID were engaged in an investigation known as Operation Galop. An investigative team led by Detective Sergeant Paul Dale, which included Detective Senior Constable David Miechel, were preparing to execute warrants at an address in Dublin Street, Oakleigh, believed to contain a large amount of cash and drugs. The targets of that investigation

⁵⁸⁹ Exhibit RC0787 Transcript of Ms Nicola Gobbo, 20 March 2019, 195-196; Transcript of Ms Nicola Gobbo, 13286-13287, TRN.2020.02.06.01.P.

⁵⁹⁰ Transcript of Mr Phillip Swindells, 27 June 2019, 3034, TRN.2019.06.27.01.P.

⁵⁹¹ Exhibit RC0251 Statement of Mr Phillip Swindells, 6 May 2019, 6 [29]-[32], VPL.0014.0025.0001 @.0006.

⁵⁹² Exhibit RC0251 Statement of Mr Phillip Swindells, 6 May 2019, 6 [29]-[32], VPL.0014.0025.0001 @.0006.

⁵⁹³ Transcript of Mr Phillip Swindells, 27 June 2019, 3033, TRN.2019.06.27.01.P.

⁵⁹⁴ Exhibit RC0273 Ms Nicola Gobbo diary, 9 October 2003, 46, MIN.0002.0002.0001 @.0046.

included Mr Azzam Ahmed, Ms Abbey Haynes and Ms Colleen O'Reilly. These matters are dealt with further in the part of these submissions dealing with the establishment of the Petra Taskforce.

489. On AFL Grand Final Night, 27 September 2003, the house was burgled. A neighbour rang to report suspicious activity, whereupon Messrs Miechel and Hodson were arrested nearby. Mr Miechel, who was injured, borrowed a telephone and rang Mr Dale who went to the MDID office soon afterwards.
490. Mr Hodson was an informant for whom Mr Miechel was the handler. Mr Dale, as Mr Miechel's supervisor, also had a role in the management of Mr Hodson, and met with him a number of times with Mr Miechel.
491. In the weeks that followed Mr Ahmed, Ms Haynes and Ms O'Reilly, were all arrested and charged as part of Operation Galop. Ms Gobbo advised and acted for all of these people.
492. Further, at the suggestion Mr De Santo, who was aware that Ms Gobbo had previously acted for Mr Terrence Hodson's son, Andrew, Ms Gobbo met with the father and son, with a view to introducing Mr Hodson senior to ESD investigators. The intention was that Mr Hodson would co-operate with ESD investigators and in due course provide evidence against any police officers who had been corruptly involved in the burglary.
493. If Ms Gobbo's plate was not full enough advising all of these alleged participants, Detective Paul Dale, the Sergeant in charge of the Operation Galop investigating team, and now prime suspect made contact with her in early October, apparently seeking legal advice. Ms Gobbo met with Mr Dale at a hotel on 9 October 2003, and then again a few days later, and on one of those meetings, provided Mr Dale with the benefit of some legal research she had conducted for him, relevant to the predicament that he found himself in. On one or other of those occasions she spent the night with him. In the ensuing weeks she was in contact with Mr Dale and a friend of his, Mr Argall, a police officer with whom Ms Gobbo had also had a friendship over a number of years. When Mr Dale was arrested on 5 December 2003, Ms Gobbo was called by Mr Dale, when the interviewing officer, Mr Murray Gregor, gave Mr Dale the opportunity to contact a legal adviser.
494. In the meantime, Ms Gobbo was representing those who Mr Dale had been investigating, including Mr Azzam Ahmed, and she appeared for him in a bail application. At some stage after Mr Ahmed was admitted to bail on 22 December 2003 he gave her phones with numbers registered in names other than her or his own in order to communicate with her privately, which she believed he obtained illegitimately through a connection at a phone shop.
495. After obtaining these phones she gave Mr Dale the number of one of these phones. In turn, Mr Dale provided her with a different mobile number listed in a name other than his own, and using these phones, they communicated with each other throughout the period from January to May of 2004.

Gobbo Involvement at the Time of the Marshall Murder

25 October 2003 - Murder of Michael Marshall

496. On 25 October 2003, Mr Michael Marshall was shot and killed by Mr Andrews, on the instructions of Mr Carl Williams. Mr McGrath's role was to drive Mr Andrews to and from the murder scene.⁵⁹⁵ At this time, Messrs Andrews and McGrath were the subject of electronic surveillance as targets of Operation Dozer.⁵⁹⁶ The shooting was therefore heard by police monitoring a listening device.⁵⁹⁷ Messrs Andrews and McGrath were arrested later in the day and charged with the murder.⁵⁹⁸
497. Upon their arrests, Messrs McGrath and Andrews contacted Mr Theo Magazis, solicitor.⁵⁹⁹ During the course of the night, Mr McGrath was interviewed by Detective Senior Constable Boris Buick, and Mr Andrews was interviewed by Mr Bateson.⁶⁰⁰ Mr Buick said that while Mr McGrath was in his custody he indicated a preparedness to provide information to police concerning the person who ordered Mr Marshall's murder.⁶⁰¹ This was the first time Mr McGrath expressed potential willingness to assist police.⁶⁰² In the view of Mr Bateson, the evidence against both Messrs McGrath and Andrews was 'overwhelming'.⁶⁰³

26 October 2003 – Gobbo Visits Andrews in Custody

498. At about 3:45pm on the afternoon of Sunday 26 October 2005, the day after the murder, Mr Williams rang Ms Gobbo to ask her if she would appear for Mr Andrews at a hearing in the Magistrates' Court on the following Monday, and suggested that another barrister, Mr Sean Grant, would be appearing for Mr McGrath. Having done so, he then contacted the solicitor, Mr Theo Magazis, and left a message on his phone to the following effect:

Theo, its Carl, buddy. Just calling to say hello and just tomorrow in court, we'll get Sean Grant going for McGrath and I've organised Nicola to come for Andrews to see what we can put out of there tomorrow.

⁵⁹⁵ *R v Williams* [2006] VSC 367, [6].

⁵⁹⁶ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 6 [30], VPL.0014.0027.0001 @.0006.

⁵⁹⁷ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 6 [30], VPL.0014.0027.0001 @.0006.

⁵⁹⁸ Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 1 [8], VPL.0014.0036.0001 @.0001.

⁵⁹⁹ Exhibit RC1879 Transcript of Hearing, *R v Carl Anthony Williams*, 27 October 2005, 57, RCMP1.0101.0001.0022 @.0057.

⁶⁰⁰ See Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 6-7 [31], VPL.0014.0027.0001 @.0006-.0007; Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 4 [10], VPL.0014.0029.0001 @.0004.

⁶⁰¹ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 4 [10], VPL.0014.0029.0001 @.0004.

⁶⁰² See Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [32], VPL.0014.0027.0001 @.0007; Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 4 [10], VPL.0014.0029.0001 @.0004; See also Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [40], VPL.0014.00027.0001 @.0008; See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 1 [8], VPL.0014.0043.0001; Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3189-3190, TRN.2019.06.28.C.

⁶⁰³ See Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 6-7 [30]-[32], VPL.0014.0027.0001 @.0006, .0007.

499. Mr Williams then called Ms Gobbo back confirming the arrangement with Ms Gobbo.⁶⁰⁴
500. When Mr Williams was tried for the murder of Mr Marshall in late 2005, the prosecutor, Mr Horgan, relied upon these telephone calls in his closing address to the jury. The Crown case was that Mr Williams had orchestrated the murder and was orchestrating the defence by arranging legal representation.⁶⁰⁵
501. The calls were apparently heard by a federal police officer, who conveyed information to Victoria Police. An information report prepared by a Victorian police officer records the following:⁶⁰⁶
- ... at 1545 hours Carl Williams was in company with Tony Mokbel. During this meeting contact was made with barrister Nicola Gobbo. Williams is arranging for her to represent (Andrews or McGrath – both names redacted) at his court appearance the following day after his arrest for the (Michael Marshall – name redacted). ...*
- Williams sounds like he is in a state of panic. He is desperate for Gobbo to go and see (Andrews - name redacted) and to tell (Andrews – name redacted) that he organised her for him and that everything will be alright. Gobbo informed Williams that being the weekend she might not be able to get into the custody centre until 5:00pm.*
- Williams reiterated that he wanted her to go and see him and requested that after her visit to him a call not on his number but on Roberta's ...*
502. Ms Gobbo did attend upon Mr Andrews at the Melbourne Custody Centre on the Sunday 26 October, and she made some notes of the visit and her discussion with Mr Andrews in her court book.⁶⁰⁷ Later, when Mr Andrews made a statement to police concerning his involvement in the Marshall murder, he asserted that he asked Ms Gobbo to pass a message to Messrs Mokbel and Williams.⁶⁰⁸
503. As it happened, Ms Gobbo did not appear for Mr Andrews at the filing hearing in on 27 October 2003. Mr Theo Magazis appeared for Mr McGrath, and Mr Grant appeared for Mr Andrews.
504. Ms Gobbo visited Mr Andrews on a second occasion again on 11 November 2003 at ██████████ Prison.⁶⁰⁹ By that stage she had commenced to act for Mr McGrath also.

⁶⁰⁴ Exhibit RC1893 Trial Transcript, *R v Carl Williams*, (Supreme Court of Victoria, Justice King and a Jury of Thirteen, 7 November 2005), 41, RCMP1.0101.0001.0027 @.0041.

⁶⁰⁵ Exhibit RC1893 Trial Transcript, *R v Carl Williams*, (Supreme Court of Victoria, Justice King and a Jury of Thirteen, 7 November 2005), 41, RCMP1.0101.0001.0027 @.0041.

⁶⁰⁶ Exhibit RC0283 Information Report AB001499, 26 October 2003, 1, VPL.0099.0096.0130.

⁶⁰⁷ Exhibit RC0273 Ms Nicola Gobbo court book, 26 October 2003, 63, MINRC.0001.0014.0001 @.0063.

⁶⁰⁸ Exhibit RC0637 Unsigned Statement of Mr Andrews, 7 March 2006, 79 [68], VPL.0100.0001.4784 @.04862.

⁶⁰⁹ Exhibit RC0273 Ms Nicola Gobbo court book, 11 November 2003, 75, MINRC.0001.0014.0001 @.0075.

3 to 10 November 2003 – Gobbo Commences Representing McGrath

505. On 3 November 2003, Ms Gobbo visited Mr McGrath in custody. She noted in her court book ‘told them it was a debt collection’ and said ‘[redacted] duress pointed a gun @ me’.⁶¹⁰ She also noted ‘Thomas and Carl – said nothing’.⁶¹¹
506. On 10 November 2003, Ms Gobbo attended on Mr McGrath again. She noted in her court book:⁶¹²
- *Theo to write to Homicide Squad – Boris Buick*
 - *will wear it for Andrews if he walks – Is carl ok with it or not?*
 - [redacted]
 - *Andrews to call C re horse scratched*

11 November 2003 – Gobbo Professional Visit to Andrews in Prison

507. On 11 November 2003, Ms Gobbo visited Mr Andrews in custody.⁶¹³ She recorded in her court book; ‘All ok, told him re: McGrath, Ok re: ‘witnesses’, wants to speak to Theo, happy to wait for brief re: bail.’⁶¹⁴

13 November 2003 – Gobbo Appears for McGrath in Application to Interview Him for Earlier Murders

508. On 30 October 2003, Mr Buick recorded in his diary that Mr McGrath had requested to speak to him.⁶¹⁵ Mr Buick later visited Mr McGrath in prison on 12 November 2003 to serve on him a section 464B Crimes Act application to have him placed into police custody for questioning in relation to the Moran and Barbaro murders.⁶¹⁶
509. On 13 November 2003, the application was heard in the Magistrates’ Court and Ms Gobbo appeared on behalf of Mr McGrath. The application was granted⁶¹⁷ and Mr McGrath was taken into police custody, during which time he provided information about the involvement of Messrs Carl Williams and Andrews in relation to the murders of Marshall, Moran and Barbaro.⁶¹⁸ He

⁶¹⁰ Exhibit RC0273 Ms Nicola Gobbo court book, 3 November 2003, 69, MINRC.0001.0014.0001 @.0069.

⁶¹¹ Exhibit RC0273 Ms Nicola Gobbo court book, 3 November 2003, 69, MINRC.0001.0014.0001 @.0069.

⁶¹² Exhibit RC0273 Ms Nicola Gobbo court book, 10 November 2003, 72, MINRC.0001.0014.0001 @.0072.

⁶¹³ Exhibit RC0273 Ms Nicola Gobbo court book, 11 November 2003, 75, MINRC.0001.0014.0001 @.0075; Exhibit RC0273 Ms Nicola Gobbo court book, 11 November 2003, 29, MIN.0005.0003.0133 @.0161; Exhibit RC1572 Corrections Victoria Archive Visit Enquiry for Mr Andrews, 11 November 2003, CNS.0001.0003.0808.

⁶¹⁴ Exhibit RC1572 Corrections Victoria Archive Visit Enquiry for Mr Andrews, 11 November 2003, CNS.0001.0003.0808; Exhibit RC0273 Ms Nicola Gobbo court book, 11 November 2003, 75, MINRC.0001.0014.0001 @.0075.

⁶¹⁵ Exhibit RC0644 Inspector Boris Buick diary, 30 October 2003, 8, VPL.0005.0193.0010 @.0017.

⁶¹⁶ Exhibit RC0644 Inspector Boris Buick diary, 12 November 2003, 10, VPL.0005.0193.0010 @.0019.

⁶¹⁷ See Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 4 [11], VPL.0014.0029.0001 @.0004; see Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [34], VPL.0014.0027.0001 @.0007.

⁶¹⁸ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [36], VPL.0014.0027.0001 @.0007; Transcript of Commander Stuart Bateson, 2 July 2019, 3357-3358, TRN.2019.07.02.01.C.

also provided information about others involved in organised crime, including Tony Mokbel.⁶¹⁹

510. This was a significant development in the investigations of the multiple gang style killings.

14 November 2003 – Purana Hold Suspicions about the Conduct of Ms Gobbo

511. At around this time Ms Gobbo had been regularly meeting with Mr Carl Williams and Mr Tony Mokbel,⁶²⁰ both of whom were later charged with the procurement of Mr Marshall's murder.⁶²¹ She was also having regular interactions with Mr Thomas.⁶²² By this time police were justifiably suspicious of Ms Gobbo's conduct.⁶²³
512. An internal Victoria Police document entitled *Assessment of events concerning deaths of Jason Moran and Pasquale Barbaro* which appears to be a summary of information acquired during the murder investigation of Moran and Barbaro (last updated on 11 June 2004)⁶²⁴ shows that Victoria Police believed that Mr Williams arranged for Ms Gobbo to represent Mr Andrews and Mr Grant to represent Mr McGrath at the initial hearing on the Monday following the murder.⁶²⁵ This document further stated 'it is known that Gobbo had a conversation with Tony Mokbel concerning the possibility that McGrath has been making admissions to police'.⁶²⁶
513. Ms Gobbo gave evidence to the Commission that after the arrest of Mr McGrath and Mr Andrews, Mr Tony Mokbel and Mr Carl Williams placed pressure on her to ensure that Mr McGrath did not implicate them in any way. She said that they wanted her to retain a forensic psychologist or psychiatrist to assess Mr McGrath and, 'say that he was either a pathological liar or totally mentally incompetent so that in the event that he did make a statement or give evidence, or try to give evidence, that he would be disbelieved'.⁶²⁷

⁶¹⁹ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [36], VPL.0014.0027.0001 @.0007; Transcript of Commander Stuart Bateson, 2 July 2019, 3357-3358, TRN.2019.07.02.01.C; Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 2 [10], VPL.0014.0043.0001_R1S @.0002.

⁶²⁰ Exhibit RC0273 Ms Nicola Gobbo diary, 27 October 2003 diary records "Jim/Thomas car thing" and later "Tony"; 28 October 2003 diary records "coffee – Mokbel" at 1:30pm; 31 October 2003 diary records "Coffee (Tony)" at 6pm; 1 November 2003 diary records "Coffee – Carl & Tony" at 8pm; 49, MIN.0002.0002.0001 @.0049; see also Transcript of Mr Gavan Ryan, 13 August 2019, 4423, 4425, TRN.2019.08.13.01.C.

⁶²¹ Carl Williams was convicted of that murder in November 2005, and the charge against Tony Mokbel was withdrawn in 2009.

⁶²² Exhibit RC0273 Ms Nicola Gobbo diary, 27 October 2003 diary records "Jim/Thomas car thing" and later "Tony", 49, MIN.0002.0002.0001 @.0049.

⁶²³ Exhibit RC0310 Statement of Mr Gavan Ryan dated 13 June 2019, 4 [21], VPL.0014.0039.0001_R1S @.0004.

⁶²⁴ Exhibit RC1779 Assessment of events concerning deaths of Jason Moran and Pasquale Barbaro, undated, 16, VPL.0100.0144.1250.

⁶²⁵ Exhibit RC1779 Assessment of events concerning deaths of Jason Moran and Pasquale Barbaro, undated, 16, VPL.0100.0144.1250 @.1265 referring to Operation Macaw Information Report 13 submitted by Police Officer 1.

⁶²⁶ Exhibit RC1779 Assessment of events concerning deaths of Jason Moran and Pasquale Barbaro, undated, 16, VPL.0100.0144.1250 @.1265 referring to Operation Macaw Information Report 15 submitted by Police Officer 1.

⁶²⁷ Exhibit RC0787 Transcript of Ms Nicola Gobbo, 20 March 2019, 194-195.

514. On 14 November 2003, Detectives from the Purana Taskforce had a meeting at which there was a discussion concerning the conduct of Ms Gobbo. Detective Gavan Ryan was at this meeting and made notes of the discussion.⁶²⁸ Detective Inspector Andrew Allen, Detective Senior Sergeant Swindells and Mr Buick,⁶²⁹ amongst others, were also at the meeting.⁶³⁰
515. Mr Ryan's notes suggest that police held suspicions about whether Ms Gobbo was conducting herself properly as a lawyer, or was acting as a messenger between Mr Andrews, Mr Williams and Mr Mokbel. The notes suggested that police were aware that Ms Gobbo wanted to see Mr Mokbel as soon as possible after the Andrews visit, and that she visited Mr Williams and Mr Thomas in Port Melbourne.⁶³¹
516. The focus was on her actions after she had visited Mr Andrews in custody, presumably on 26 October 2003, or alternatively following her subsequent visit to him in custody on 11 November 2003.
517. The notes suggest that Detectives questioned whether telephone calls between Ms Gobbo on the one hand and Mr Williams, Mr Mokbel and Mr Thomas on the other were not for the dominant purpose of providing legal advice. Consideration was being given to gaining access to and reviewing phone calls involving Ms Gobbo, which may previously have been quarantined by the Special Projects Unit (SPU) due to legal professional privilege.⁶³²
518. The fact that Purana's application to covertly follow Ms Gobbo included the assertion that Ms Gobbo would arrange to meet Mokbel and Williams at times of developments in homicide/drug squad investigations is consistent with the above suspicions.
519. Mr Ryan said that the reason for the surveillance was that Ms Gobbo was continually attending meetings during which police considered she was passing on information.⁶³³ Mr Ryan recalled Ms Gobbo 'running to see Mokbel all the time around that time, and Williams'.⁶³⁴ He also said she 'was flat out visiting everyone'.⁶³⁵

17 November 2003 – Williams' Arrest for Threats to Kill Bateson and Girlfriend

520. On 15 November 2003, during a conversation with Mr Andrews, who was in custody, Mr Williams made threats to kill Mr Bateson and his girlfriend.⁶³⁶ That telephone call was recorded on a listening device.⁶³⁷

⁶²⁸ Exhibit RC0325 Mr Gavan Ryan diary, 14 November 2003, 1, VPL.0005.0148.0001_R1S @.0001.

⁶²⁹ Exhibit RC0644 Inspector Boris Buick diary, 14 November 2003, 13, VPL.0005.0193.0010 @.0022.

⁶³⁰ Exhibit RC0312 Mr Gavan Ryan diary, 14 November 2003, 1, VPL.0005.0148.0001_R1S @.0001.

⁶³¹ Exhibit RC0312 Mr Gavan Ryan diary, 14 November 2003, 1, VPL.0005.0148.0001_R1S @.0001.

⁶³² Mr Ryan was unable to recall the meeting, although he doubted that his notes could be interpreted that way; Transcript of Mr Gavan Ryan, 13 August 2019, 4417-4430, TRN.2019.08.13.01.C; Transcript of Inspector Boris Buick, 29 October 2019, 8516, TRN.2019.10.29.01.C; Exhibit RC0312 Mr Gavan Ryan diary, 14 November 2003, 2, VPL.0005.0148.0001_R1S @.0002.

⁶³³ Transcript of Mr Gavan Ryan, 9 August 2019, 4235, TRN.2019.08.09.01.P.

⁶³⁴ Transcript of Mr Gavan Ryan, 13 August 2019, 4420, TRN.2019.08.13.01.C.

⁶³⁵ Transcript of Mr Gavan Ryan, 13 August 2019, 4421, TRN.2019.08.13.01.C.

⁶³⁶ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [37], VPL.0014.0027.0001 @.0007.

⁶³⁷ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [37], VPL.0014.0027.0001 @.0007.

521. On 17 November 2003, a search warrant was executed at Mr Williams' home.⁶³⁸ Mr Williams was subsequently arrested and charged with two counts of making threats to kill.⁶³⁹
522. On 19 November 2003, Ms Gobbo and Mr Magazis attended the offices of Victoria Police to listen to the recordings.⁶⁴⁰ Among the police officers present was Mr Shane O'Connell. After they had listened to the recordings, Mr Magazis advised Mr O'Connell that there would be no immediate application for bail.⁶⁴¹
523. Ms Gobbo later advised Mr O'Connell that she could not act for Mr Williams as she had a conflict.⁶⁴² However, she subsequently went on to act for him at various times during the prosecution. Mr O'Connell gave evidence that he considered that, because she went on to act for him, she had resolved her conflict.⁶⁴³

9 November 2003 – McGrath Visited by Bateson

524. On 19 November 2003, Mr Bateson attended ██████████ Prison to give Mr McGrath recordings of the information he had provided about Messrs Andrews, Carl Williams and others following the successful s464B application.⁶⁴⁴ Mr Bateson considered this to be a significant event in Mr McGrath's ongoing co-operation with the prosecution.⁶⁴⁵

22 and 25 November 2003 – Gobbo Still Acting for Andrews

525. On 22 November 2003, Ms Gobbo told Mr Thomas in a recorded telephone call that she had received approval to be on Mr Andrews' telephone list.⁶⁴⁶
526. On 25 November 2003, it is apparent that Ms Gobbo recorded a contact with Mr Andrews on that day.⁶⁴⁷

2 December 2003 – Gobbo Contacts with McGrath about a Deal

527. Ms Gobbo visited Mr McGrath in custody on 23 November 2003 and 7 December 2003.⁶⁴⁸ Mr McGrath called Ms Gobbo on 2 December 2003.⁶⁴⁹
528. On 7 December 2003, Ms Gobbo visited Mr McGrath with Mr Magazis. She noted in her court book that Mr McGrath told her that, after the section 464B

⁶³⁸ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 17 November 2003, 3, VPL.0015.0001.0409 @.0411.

⁶³⁹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 17 November 2003, 3, VPL.0015.0001.0409 @.0411.

⁶⁴⁰ Exhibit RC1347 Mr Shane O'Connell diary, 19 November 2003, 5, RCMP1.0146.0001.0002 @.0005.

⁶⁴¹ Exhibit RC1347 Mr Shane O'Connell diary, 19 November 2003, 5, RCMP1.0146.0001.0002 @.0005.

⁶⁴² Transcript of Mr Shane O'Connell, 18 February 2020, 14395, TRN.2020.02.18.01.P.

⁶⁴³ Transcript of Mr Shane O'Connell, 18 February 2020, 14395, TRN.2020.02.18.01.P.

⁶⁴⁴ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 7 [38], VPL.0014.0027.0001 @.0007; Transcript of Commander Stuart Bateson, 2 July 2019, 3360-3361, TRN.2019.07.02.01.C.

⁶⁴⁵ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 17 November 2003, 3, VPL.0015.0001.0409 @.0411.

⁶⁴⁶ Exhibit RC1778 Application for renewal of warrants, 22 November 2003, VPL.0100.0149.5710 @.5715.

⁶⁴⁷ Exhibit RC0272 Ms Nicola Gobbo court book, 96, 25 November 2003, MINRC.0001.0014.0001 @.0096.

⁶⁴⁸ Exhibit RC0283 Information Report, 27 November 2003, 3, VPL.0100.0142.5244 @.5246.

⁶⁴⁹ Exhibit RC0283 Information Report, 27 November 2003, 3, VPL.0100.0142.5244 @.5246.

application, 'Batt' (Sic – probably Detective Senior Constable Mark Hatt) from Purana visited him, and offered him a deal if he gave up others.⁶⁵⁰ Ms Gobbo wrote in her court book:

- *offer re another solicitor/ barrister to negotiate because we act for Andrews*
- *"bit worried about things" wouldn't give evidence against him*
- *we will get instructions + give advice after brief of evidence is reviewed*
- *brief of evidence due on 19.12. 03.*⁶⁵¹

7 December 2003 – Williams' Daughter's Christening at Crown Casino

529. On 7 December 2003, Mr Williams organised a large and expensive party at the Crown Palladium, catering to about 150 guests to celebrate the christening of his daughter. Many people with long criminal histories attended the function, and amongst the guests were Mr Horty Mokbel, Mr Milad Mokbel, Mr Thomas and Mr Veniamin, and legal representatives including Ms Gobbo. There was a member of the Purana [REDACTED] present in the Crown [REDACTED].⁶⁵²

530. During the event, Ms Gobbo gave a toast, reading out a letter of support from Mr Andrews.⁶⁵³

15 December 2003 – Purana Informed that Gobbo Detected Abusing Privilege Telephone Call Rights

531. On 15 December 2003, Mr Gardener of Purana made a request to the OIC of the Victorian Police Prison Squad that telephone calls made by prisoner Mr [REDACTED], who was a client of Ms Gobbo, be monitored in order to detect evidence of unauthorized telephone contact with others using Ms Gobbo's telephone.⁶⁵⁴

532. This request arose because on 12 December, Ms Gobbo had permitted Mr [REDACTED] to call her office telephone from prison, to communicate directly with a person who was a target of the Purana taskforce.⁶⁵⁵

533. Mr Thomas asserted that Mr [REDACTED] case was an extension of an agreement he had with Ms Gobbo, whereby he provided Ms Gobbo money in return for which 'she would provide me with information about whether any of my associates who had been charged were likely to make statements against me, those types of things'.⁶⁵⁶

⁶⁵⁰ Exhibit RC0272 Ms Nicola Gobbo court book, 105, 7 December 2003, MINRC.0001.0014.0001 @.0105.

⁶⁵¹ Exhibit RC0272 Ms Nicola Gobbo court book, 105, 7 December 2003, MINRC.0001.0014.0001 @.0105.

⁶⁵² Exhibit RC0641, Operation Purana Update, 8 December 2003, VPL.0100.0012.0040.

⁶⁵³ Exhibit RC0281 ICR2958 (023), 8 June 2008, 400, VPL.2000.0003.1140; Exhibit RC0281 ICR2958 (023), 10 June 2008, 407, VPL.2000.0003.1147.

⁶⁵⁴ Exhibit RC0473 Taskforce Purana request, 15 December 2003, VPL.0100.0151.4150.

⁶⁵⁵ Exhibit RC0473 Taskforce Purana request, 15 December 2003, VPL.0100.0151.4150.

⁶⁵⁶ Exhibit RC1176C, Confidential Statement of Mr Thomas, 6 February 2020, [18].

534. Mr ██████ had been found in possession of ██████ supplied by Mr Thomas and arrested. Mr Thomas referred Mr ██████ to Ms Gobbo who then acted for him. He asserted that Ms Gobbo, having spoken to Mr ██████⁶⁵⁷

contacted me the next night and told me that I had been busted handing over the ██████. She tipped me off that I was being investigated. We discussed the possibility that I could only be charged if ██████ gave me up.

535. Ms Gobbo conceded that she assumed that Mr Thomas wanted Mr ██████ looked after by Ms Gobbo, because Mr ██████ could have given him up.⁶⁵⁸ She strongly rejected, however, the assertion that there was a retainer in place.⁶⁵⁹

11 February 2004 – Kerley & Hatt Visit McGrath

536. In February 2004, members of Victoria Police visited Mr McGrath in prison several times, during which discussions took place about Mr McGrath's co-operation with police.⁶⁶⁰

537. On 11 February 2004, Detectives Senior Constable Kerley and Mr Hatt attended ██████ Prison to speak to Mr McGrath.⁶⁶¹ During this discussion, Mr McGrath indicated a preparedness to provide information against Mr Williams and said that Mr Williams had paid he and Mr Andrews to murder Mr Marshall. Mr McGrath said he had asked his legal representative, Nicola Gobbo, if he should supply information to the police about Williams. He said that Ms Gobbo had told him that it was up to him and that he should look after himself.⁶⁶²

538. Mr Hatt visited Mr McGrath again on 16 February 2004.⁶⁶³ According to Mr Hatt, notes from this visit demonstrate that Mr McGrath was providing information to police and indicating his willingness co-operate further.⁶⁶⁴

Gobbo Involvement with Carl Williams

18 February 2004 – Gobbo Appears at Threat to Kill Committal Mention for Williams

539. As referred to earlier, following Mr Williams' arrest in November 2003, Ms Gobbo had attended the police station to listen to recordings of the threats alleged to have been made by Mr Williams against Mr Bateson and his girlfriend. Following Mr Williams' successful bail application in December

⁶⁵⁷ Exhibit RC1176C Confidential Statement of Mr Thomas, 6 February 2020, [20].

⁶⁵⁸ Transcript of Ms Nicola Gobbo, 7 February 2020, 13436, TRN.2020.02.07.01.P.

⁶⁵⁹ Transcript of Ms Nicola Gobbo, 7 February 2020, 13433, TRN.2020.02.07.01.P.

⁶⁶⁰ See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 2 [13], VPL.0014.0043.0001_R1S @.0002.

⁶⁶¹ Exhibit RC0283 Information Report, 11 February 2004, VPL.0099.0113.3060.

⁶⁶² Exhibit RC0283 Information Report, 11 February 2004, VPL.0099.0113.3060.

⁶⁶³ Exhibit RC0263 Acting Inspector Mark Hatt day book, 16 February 2004, 13, VPL.0005.0114.0001_R1S @.0013.

⁶⁶⁴ See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 23 [13] – [14], VPL.0014.0043.0001_R1S @.0002-.0003; Exhibit RC0263 Acting Inspector Mark Hatt day book, 16 February 2004, 15, VPL.0005.0114.0001_R1S @.0015.

2003, Ms Gobbo had attended and given a speech at his daughter's christening.

540. On 18 February 2004, Ms Gobbo appeared for Carl Williams at the further committal mention in relation to the threat to kill charges.⁶⁶⁵ During the mention, Ms Gobbo made an application to cross-examine Mr Bateson and his girlfriend in relation to the threats to kill. That application was granted.
541. An article in *The Age* the following day reported the hearing and noted that Ms Gobbo was Mr Williams' barrister and quoted her submissions. The committal was listed to be heard later in the year.⁶⁶⁶

27 February 2004 – Gobbo, Dale and Williams

542. On the night of 27 February 2004, Ms Gobbo met with Mr Dale. The police played her recordings of two phone calls with Carl Williams. In the first she indicated that Carl Williams was supposed to catch up with his 'other advisor', a reference to Mr Dale. In the second, Mr Dale came onto the phone and spoke with Carl Williams.

Gobbo Involvement in McGrath Co-Operation with Purana

22 March 2004 – Committal Mention regarding McGrath and Andrews

543. On 22 March 2004, a committal mention hearing for Messrs McGrath and Andrews was held for the Marshall murder charges.⁶⁶⁷ Mr Bateson and Mr Buick were present, as was Ms Gobbo, although she did not appear for either of the accused.⁶⁶⁸
544. Mr Bateson and Ms Gobbo had a discussion outside the court room about Mr McGrath co-operating with police.⁶⁶⁹ According to Mr Bateson, he understood Ms Gobbo to be Mr McGrath's lawyer and told her 'that if her client wished to co-operate with police then the next step would be for him to compile a 'can say' statement that could be provided to the Crown

⁶⁶⁵ Exhibit RC0272 Ms Nicola Gobbo court book, 144, 18 February 2004, MINRC.0001.0014.0001 @.0144.

⁶⁶⁶ 'Detective and girlfriend can be examined on kill threats', *The Age*, (Melbourne, 19 February 2004). [publicly available]

⁶⁶⁷ See eg Exhibit RC0262A Statement of Acting Inspector Mark Hatt, 17 June 2019, 3 [16], VPL.0014.0043.0001_R1S @.0003.

⁶⁶⁸ See Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 4 -5[15], VPL.0014.0029.0001 @.0004-.0005; See Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [41], VPL.0014.0027.0001 @.0008; Transcript of Commander Stuart Bateson, 2 July 2019, 3362, TRN.2019.07.02.01.C.

⁶⁶⁹ See Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [42] VPL.0014.0027.0001 @.0008; Transcript of Commander Stuart Bateson, 2 July 2019, 3362-3363, TRN.2019.07.02.01.C; see Exhibit RC0272 Commander Stuart Bateson diary, 5 April 2004, 71-72, VPL.0005.0058.0161 @.0231-.0232.

prosecutor for him to consider'.⁶⁷⁰ Ms Gobbo responded that she would seek instructions from Mr McGrath and get back to Mr Bateson.⁶⁷¹

545. According to Mr Bateson, Ms Gobbo was 'at pains' to point out she would not declare confidential communications to Carl Williams or anyone else.⁶⁷² It is apparent that Ms Gobbo was raising concerns of potential conflicts of interest. Mr Bateson said in evidence to the Commission that Ms Gobbo's statement 'was a reasonable one for her to make because she knew I knew that she socialized with him'.⁶⁷³
546. Mr Bateson said in evidence to the Commission that he did not turn his mind to whether Ms Gobbo was in a position of professional conflict. Surprisingly, given the notoriety of Carl Williams' threat to kill charges, he said that he was not aware that Ms Gobbo was acting in that matter.⁶⁷⁴

25 March 2004 – OPP Meeting regarding McGrath's Potential Co-operation

547. On 25 March 2004, members of the Purana Taskforce, namely Mr Allen, Mr Ryan, Mr Bateson and Mr Buick, had a meeting with Mr Horgan and Ms Vaile Anscombe, OPP solicitor, regarding the Marshall murder. Mr Horgan was a Senior Crown Prosecutor who had carriage of many trials arising out of the investigations of the Purana Taskforce.⁶⁷⁵
548. Mr Bateson made a note in his diary that 'lines of communication' were discussed.⁶⁷⁶ He recalled that the purpose of the meeting was to inform the OPP that Ms Gobbo had indicated on 22 March 2004 that Mr McGrath was contemplating co-operating with police and pleading guilty to the murder of Mr Marshall in return for a reduced sentence.⁶⁷⁷
549. Mr Allen noted in his diary that, 'N Gobbo to be advised of urgency of the situation regarding can-say and to progress the same and the OPP to be briefed'.⁶⁷⁸ He also noted that Mr Overland, then Assistant Commissioner of Crime, Mr Whitmore and Mr Purton were briefed as to the discussions that occurred with Mr Horgan.⁶⁷⁹

⁶⁷⁰ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [42] VPL.0014.0027.0001 @.0008; Exhibit RC0272 Commander Stuart Bateson day book, 22 March 2004, 48, VPL.0005.0058.0161 @.0208; See also Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [44], VPL.0014.0027.0001 @.0008.

⁶⁷¹ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [42] VPL.0014.0027.0001 @.0008; Exhibit RC0272 Commander Stuart Bateson day book, 22 March 2004, 48, VPL.0005.0058.0161 @.0208; see also Exhibit RC0248 Statement of Mr Andrew Allen, 2 [12a], VPL.004.0037.0001 @.0002 in relation to a meeting on 25 March 2004 at the OPP, where it was noted that "Ms Gobbo was to be advised that the need for Witness X's 'can say' statement to be progress was urgent...".

⁶⁷² Exhibit RC0272 Commander Stuart Bateson day book, 22 March 2004, 48, VPL.0005.0058.0161 @.0208.

⁶⁷³ Transcript of Commander Stuart Bateson, 2 July 2019, 3364, TRN.2019.07.02.01.C.

⁶⁷⁴ Transcript of Commander Stuart Bateson, 2 July 2019, 3363-3364, TRN.2019.07.02.01.C.

⁶⁷⁵ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [44] VPL.0014.0027.0001 @.0008; Transcript of Commander Stuart Bateson, 2 July 2019, 3361, TRN.2019.07.02.01.C.

⁶⁷⁶ Exhibit RC0272 Commander Stuart Bateson day book, 25 March 2004, 56, VPL.0005.0058.0161 @.0216.

⁶⁷⁷ Exhibit RC0269C Supplementary Statement of Commander Stuart Bateson, 17 November 2019, 1 [4] VPL.0014.0027.0020 @.0001.

⁶⁷⁸ Exhibit RC0249 Mr Andrew Allen diary, 25 March 2004, 1, VPL.0005.0118.0001 @.0001.

⁶⁷⁹ Exhibit RC0249 Mr Andrew Allen diary, 25 March 2004, 1, VPL.0005.0118.0001 @.0001.

550. Later that day, Mr Bateson spoke to Ms Anscombe.⁶⁸⁰ He updated her concerning Mr McGrath and noted 'I may contact Nicola Gobbo for an update as I discuss the can-say statement with her on Monday.'⁶⁸¹

5 April 2004 – Bateson and Buick Visit McGrath; McGrath Indicates Willingness to Provide 'Can say' Statements

551. On 5 April 2004, Messrs Bateson and Buick visited Mr McGrath in prison.⁶⁸² He provided information to them about certain recent murders.⁶⁸³

552. It seems that Ms Gobbo spoke to Mr McGrath over the phone and she noted in her court book; 'Police saw him again – they want full disclosure.'⁶⁸⁴

553. Later that day, Ms Gobbo spoke to Mr Bateson (who said he would be out of the country for five weeks) and told him that she and her instructor would be visiting Mr McGrath the following day.⁶⁸⁵ She agreed that the proper process was for him to provide a 'can say' statement.⁶⁸⁶

554. Ms Gobbo made notes in her diary of the conversation:⁶⁸⁷

Need details otherwise no use; needs to become a valuable witness; spoken to bosses who have spoken to Coghlan QC; reverse caution, can't be used against him; full disclosure re Marshall's murder and Jason's murder; no direct knowledge re any other murders.

6 April 2004 - Gobbo Visits McGrath to Discuss His Co-Operation

555. On 6 April 2004, Ms Gobbo conducted a professional visit to Mr McGrath in custody, with her instructing solicitor, Ms Karen Ingleton.⁶⁸⁸

556. In her court book, she noted, amongst other matters:

- *explaining what Bateson said yesterday re cooperation*
- *they want full disclosure*
- *Marshall matter separate consideration*
- *Fear of Carl Williams being then I'll have no bargaining power.*⁶⁸⁹

⁶⁸⁰ Exhibit RC0272 Commander Stuart Bateson day book, 25 March 2004, 56, VPL.0005.0058.0161 @.0216.

⁶⁸¹ Exhibit RC0272 Commander Stuart Bateson day book, 25 March 2004, 56, VPL.0005.0058.0161 @.0216.

⁶⁸² Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [46] VPL.0014.0027.0001 @.0008; Exhibit RC0644 Inspector Boris Buick diary, 5 April 2004, 3, VPL.0005.0193.0172 @.0186; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 5 April 2004, 6, VPL.0015.0001.0409 @.0414.

⁶⁸³ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [46] VPL.0014.0027.0001 @.0008; Exhibit RC0273 Ms Nicola Gobbo court book, 5 April 2004, 162, MINRC.0001.0014.0001 @.0162.

⁶⁸⁴ Exhibit RC0273 Ms Nicola Gobbo court book, 5 April 2004, 162, MINRC.0001.0014.0001 @.0162.

⁶⁸⁵ Exhibit RC0273 Ms Nicola Gobbo court book, 5 April 2004, 162, MINRC.0001.0014.0001 @.0162.

⁶⁸⁶ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 8 [46] VPL.0014.0027.0001 @.0008; Transcript of Commander Stuart Bateson, 2 July 2019, 3366, TRN.2019.07.02.01.C.

⁶⁸⁷ Exhibit RC0273 Ms Nicola Gobbo court book, 5 April 2004, 162, MINRC.0001.0014.0001 @.0162.

⁶⁸⁸ Exhibit RC0273 Ms Nicola Gobbo court book, 6 April 2004, 164, MINRC.0002.0002.0002 @.0019; Exhibit RC0273 Ms Nicola Gobbo court book, 6 April 2004, 164, MINRC.0001.0014.0001 @.0164.

⁶⁸⁹ Exhibit RC0273 Ms Nicola Gobbo court book, 6 April 2004, 164, MINRC.0001.0014.0001 @.0164.

557. Ms Gobbo noted in her court book the information that would be required in a statement in relation to the murders of Mr Moran and Mr Barbaro and noted that Mr McGrath wanted an indemnity. She also noted that he could assist with Marshall; 'who ordered it etc'. She noted various other matters that were discussed, including [REDACTED] and other intelligence that he had provided to Mr Bateson, including the list of names.⁶⁹⁰
558. Mr Bateson was asked about this entry and he said that this reinforced the significance of Carl Williams being arrested in June, as it was clear Mr McGrath was 'holding out' for a better deal until 'the last possible minute'.⁶⁹¹ Mr Bateson claimed this was further demonstrated by the fact that Mr McGrath wanted a complete indemnity for the Marshall murder.⁶⁹² Mr Bateson gave evidence of his belief that Mr McGrath 'was always going to make that deal'.⁶⁹³

7 April 2004 – Gobbo Meeting with Allen and Ryan; References to Conflict of Interest and Safety Concerns

559. On 7 April 2004, Ms Gobbo, along with her instructing solicitor Ms Karen Ingleton, met with Messrs Allen and Ryan in the vicinity of the County Court at Melbourne.⁶⁹⁴ They spoke about issues regarding Mr McGrath.⁶⁹⁵
560. Mr Allen could not recall the reasons for which he attended that meeting. He presumed that Mr Ryan organised it.⁶⁹⁶
561. Mr Ryan made notes in his day book in relation to the meeting.⁶⁹⁷ It is apparent that Ms Gobbo's potential conflict of interest was discussed, as Mr Ryan made a note 'Carl Williams – conflict of interest'.⁶⁹⁸ This can only have been a reference to the conflict of interest that Ms Gobbo faced in acting for Mr McGrath at the same time as acting for Mr Williams. Mr Ryan made further notes, including that there were safety concerns if Mr McGrath were to 'roll', as people would quickly become aware that this had occurred.⁶⁹⁹
562. In evidence to the Commission, Mr Ryan said that this note reflected the fact that Ms Gobbo was aware that she had a conflict of interest and was highlighting it to him. Mr Ryan did not regard the conflict as a problem for Victoria Police.⁷⁰⁰
563. Mr Bateson agreed that there were always concerns in relation to Ms Gobbo acting for Mr McGrath, as receiving his instructions would place her in a 'difficult position' due to her connections to the Williams' crew.⁷⁰¹ Mr Bateson

⁶⁹⁰ Exhibit RC0273 Ms Nicola Gobbo court book, 6 April 2004, 164, MINRC.0001.0014.0001 @.0164.

⁶⁹¹ Transcript of Commander Stuart Bateson, 2 July 2019, 3368, TRN.2019.07.02.01.C.

⁶⁹² Transcript of Commander Stuart Bateson, 2 July 2019, 3368, TRN.2019.07.02.01.C.

⁶⁹³ Transcript of Commander Stuart Bateson, 2 July 2019, 3368, TRN.2019.07.02.01.C.

⁶⁹⁴ Exhibit RC0273 Ms Nicola Gobbo court book, 7 April 2004, 166, MINRC.0001.0014.0001 @.0166.

⁶⁹⁵ Exhibit RC0249 Mr Andrew Allen diary, 7 April 2004, 5, VPL.0005.0130.0001_R1S @.0005.

⁶⁹⁶ Transcript of Mr Andrew Allen, 26 June 2019, 2953, TRN.2019.06.26.01.C.

⁶⁹⁷ Exhibit RC0312 Mr Gavan Ryan day book, 7 April 2004, 8, VPL.0005.0148.0001 @.0008.

⁶⁹⁸ Exhibit RC0312 Mr Gavan Ryan day book, 7 April 2004, 8, VPL.0005.0148.0001 @.0008.

⁶⁹⁹ Exhibit RC0312 Mr Gavan Ryan day book, 7 April 2004, 8, VPL.0005.0148.0001 @.0008.

⁷⁰⁰ Transcript of Mr Gavan Ryan, 14 August 2019, 4478, TRN.2019.08.14.01.C.

⁷⁰¹ Transcript of Commander Stuart Bateson, 2 July 2019, 3368-3369, TRN.2019.07.02.01.C.

said that, 'knowing how much this guy (McGrath) wanted this deal... I believe Nicola Gobbo acted always in his best interests.'⁷⁰²

8 April 2004 – Purana Update; Discussions about Other Conflicts of Interest

564. On 8 April 2004, Mr Overland, Superintendent Whitmore and Commander of Crime Terry Purton were briefed by Mr Allen and Mr Ryan about their meeting with Ms Gobbo the previous day and the progression of the McGrath issue.⁷⁰³
565. Mr Allen also recorded a discussion in the meeting about a conflict of interest of a particular board member of Crime Stoppers who would be thereby privy to Purana knowledge but who was also a journalist.⁷⁰⁴ Mr Allen agreed that this situation demonstrated that he and his senior officers were attuned to concerns about conflicts of interest.⁷⁰⁵

9 April 2004 –Gobbo Meets Allen at Wallflower to Discuss McGrath

566. At 1.30pm on 9 April, Mr Allen recorded in his diary a telephone call with Ms Gobbo and an arrangement to meet her in Clarendon Street South Melbourne to discuss the issues concerning Mr McGrath. Twenty minutes later he met Ms Gobbo at the Wallflower Café in Clarendon. Mr Allen made the following notes:
- *Issues canvassed re McGrath and her acting for him*
 - *advised that PGS (Mr Swindells) is to visit next week*
 - *also issues re R. W (Roberta Williams and media this morning and advised her that XAC (Mr Overland) had been briefed re McGrath*
 - *NG also advised that she will be speaking to a person who may know of where info from Purana may be being released to media – to be advised – no allegations from her re Purana.*⁷⁰⁶
567. Mr Allen said the duration of this meeting was about an hour and a quarter.⁷⁰⁷ He said that he did not audio record this conversation, and the only written record could have been the diary entry.⁷⁰⁸ On returning to the office, Mr Allen spoke to Mr Swindells about the meeting.⁷⁰⁹ Mr Bateson said that he was not aware of the meeting.⁷¹⁰
568. It is apparent that 'RW' refers to Roberta Williams, who he had contacted earlier that day regarding issues she had with the media.⁷¹¹ In evidence to the Commission, Mr Allen agreed that it was possible that he discussed

⁷⁰² Transcript of Commander Stuart Bateson, 2 July 2019, 3369, TRN.2019.07.02.01.C.

⁷⁰³ Exhibit RC0249 Mr Andrew Allen diary, 7 April 2004, 5, VPL.0005.0130.0001_R1S @.0005.

⁷⁰⁴ Transcript of Mr Andrew Allen, 26 June 2019, 2954, TRN.2019.06.26.01.C.

⁷⁰⁵ Transcript of Mr Andrew Allen, 26 June 2019, 2954, TRN.2019.06.26.01.C.

⁷⁰⁶ Transcript of Mr Andrew Allen, 26 June 2019, 2965, TRN.2019.06.26.01.C.

⁷⁰⁷ Transcript of Mr Andrew Allen, 26 June 2019, 2957, TRN.2019.06.26.01.C.

⁷⁰⁸ Transcript of Mr Andrew Allen, 26 June 2019, 2957, TRN.2019.06.26.01.C.

⁷⁰⁹ Transcript of Mr Andrew Allen, 26 June 2019, 2957, TRN.2019.06.26.01.C.

⁷¹⁰ Transcript of Commander Stuart Bateson, 2 July 2019, 3368, TRN.2019.07.02.01.C.

⁷¹¹ Exhibit RC0249 Mr Andrew Allen diary, 9 April 2004, 7, VPL.0005.0130.0001_R1S @.0007.

those issues with Ms Gobbo due to her association with the Williams family.⁷¹²

569. Mr Allen agreed that 'XAC' referred to Mr Overland, but he could not recall what the content of the briefing would have been.⁷¹³
570. Mr Allen said that he could not recall what the note concerning the media leak related to save that it appeared to be a concern about someone leaking Purana-related material.⁷¹⁴ Clearly enough Ms Gobbo had intimated that she was going to provide any information she discovered to Mr Allen.
571. Mr Allen could not recall what the 'issues' regarding her acting for Mr McGrath were.⁷¹⁵ He said that he did not have significant involvement in the process of dealing with Mr McGrath, but something must have occurred on that occasion for Mr Allen to speak with her.⁷¹⁶ In all probability, Ms Gobbo had raised the issue that subsequently she raised with Mr Bateson, and led to police seeking to protect from disclosure Ms Gobbo's involvement in the process of 'rolling' Mr McGrath. That is, that if it were found out that Ms Gobbo was involved in the process whereby Mr McGrath 'rolled' she would be at serious personal risk. This was an amplified echo of the concern that had arisen the previous year when she had acted for Mr Lewis Moran, a man who himself had been murdered little more than a week prior to this meeting.

27 April 2004 – Allen and Swindells Meet with Horgan

572. On the morning of 27 April 2004, Mr Allen spoke to Mr Buick.⁷¹⁷ Mr Allen updated Mr Buick on a meeting he was scheduled to attend with the OPP that afternoon.⁷¹⁸ Mr Buick agreed that this indicated that he was being kept updated on the progress of negotiations with Mr McGrath.⁷¹⁹ In the afternoon of 27 April 2004, Mr Allen and Mr Swindells attended a meeting at the OPP. There, they met with Mr Horgan and Ms Anscombe.⁷²⁰
573. Mr Allen noted in his diary that the topic of discussion at that meeting was 'Purana issues: - Andrews, DNA application, contact with the ACC/N Gobbo'. It also noted that Mr Horgan was to 'contact both and advise of next stage'.⁷²¹

28 April 2004 – Gobbo Speaks with Horgan; Conflict Issue Raised

574. On 28 April 2004, Ms Gobbo's court book records that she had a 'confidential' conversation with Mr Horgan about the potential plea deal between the Crown and Mr McGrath.⁷²² It appears that, during the

⁷¹² Transcript of Mr Andrew Allen, 26 June 2019, 2955, TRN.2019.06.26.01.C.

⁷¹³ Transcript of Mr Andrew Allen, 26 June 2019, 2956, TRN.2019.06.26.01.C.

⁷¹⁴ Transcript of Mr Andrew Allen, 26 June 2019, 2956, TRN.2019.06.26.01.C.

⁷¹⁵ Transcript of Mr Andrew Allen, 26 June 2019, 2956, TRN.2019.06.26.01.C.

⁷¹⁶ Transcript of Mr Andrew Allen, 26 June 2019, 2955, TRN.2019.06.26.01.C.

⁷¹⁷ Exhibit RC0644 Inspector Boris Buick day book, 27 April 2004, 22, VPL.0005.0193.0172 @.0193; Exhibit RC0249 Mr Andrew Allen diary, 27 April 2004, 2, VPL.0005.0118.0001 @.0002.

⁷¹⁸ Exhibit RC0644 Inspector Boris Buick day book, 27 April 2004, 22, VPL.0005.0193.0172 @.0193.

⁷¹⁹ Transcript of Inspector Boris Buick, 30 October 2019, 8539, TRN.2019.10.30.01.C.

⁷²⁰ Exhibit RC0249 Mr Andrew Allen diary, 27 April 2004, 2, VPL.0005.0118.0001 @.0002.

⁷²¹ Exhibit RC0249 Mr Andrew Allen diary, 27 April 2004, 3, VPL.0005.0118.0001 @.0003.

⁷²² Exhibit RC0273 Ms Nicola Gobbo court book, 28 April 2004, 3, MIN.0001.0014.1130 @.1132.

conversation, conflict issues were present in Ms Gobbo's mind. The court book notes as follows:⁷²³

McGrath/Confidential

2:30pm Geoff Horgan SC

- *Who do I act for & do I have a conflict*
- *Bottom line if not shooter then may get indemnity*
- *Marshall – Crown say contract killing life w/no minimum term asked for*
- *Want a can say s/ment: the next step to be taken*

575. By a letter dated 19 June 2019, the Commissioner invited the DPP to voluntarily comment upon a number of matters of interest to the inquiry, set out in 118 paragraphs in the letter. Paragraph 12 concerned Ms Gobbo's diary entry of 28 April referred to above. Ms Kerri Judd QC, DPP, provided a voluntary response to this letter dated 8 November 2019 to assist the inquiry. Ms Judd was able to provide further information in relation to some of the paragraphs including paragraph 12, as to which Mr Horgan apparently assisted her to do so. He was unable to recall the meeting however, and was therefore unable to comment. Mr Horgan did recall having concerns that Ms Gobbo had conflicts of interest, and he raised that with her. This will be further addressed below.⁷²⁴

576. If Ms Gobbo's note is considered at face value, it seems that Mr Horgan was alive to and raised with her the question of potential conflict that she may have in a professional capacity, arising from her representation of another or others who had contrary interests to Mr McGrath. It is likely that those would be the people who Mr McGrath might implicate, for example Carl Williams, for whom Ms Gobbo had acted and was currently still acting. This would be consistent with Mr Horgan's recollection.

3 to 4 May 2004 – Gobbo Speaks to Swindells

577. On 3 May 2004, Ms Gobbo appeared for Mr Terrence Chimirri in a bail variation hearing.⁷²⁵ Later that day she spoke to Mr Swindells by telephone. It is apparent they discussed the Chimirri bail hearing, as he was considered to be a suspect in the murder of Lewis Moran. Ms Gobbo noted in her court book 'what is happening? Reality difference between Purana and Horgan' and 'Phil has helped' (presumably referring to Phillip Swindells).⁷²⁶

578. The next day, 4 May 2004, Ms Gobbo spoke to Mr Swindells again and then to her instructing solicitor Ms Karen Ingleton. She noted in her court book that:⁷²⁷

Swindells

- *Relevant witness @ an ACC hearing another quiver in the bow;*
- *Whatever views we have OPP have overall control of brief;*

⁷²³ Exhibit RC0273 Ms Nicola Gobbo court book, 28 April 2004, 3, MIN.0001.0014.1130 @.1132.

⁷²⁴ Exhibit RC1096 Information provided to the Royal Commission into the Management of Police Informants by Kerri Judd, Director of Public Prosecutions, 23-24, RCMPI.0104.0001.0001 @.0024-.0023.

⁷²⁵ Exhibit RC0273 Ms Nicola Gobbo court book, 3 May 2004, 14, MIN.0001.0014.1130 @.1143.

⁷²⁶ Exhibit RC0273 Ms Nicola Gobbo court book, 3 May 2004, 14, MIN.0001.0014.1130 @.1143.

⁷²⁷ Exhibit RC0273 Ms Nicola Gobbo court book, 4 May 2004, 20, MINRC.0001.0014.0002 @.0020.

- *Political pressure*
- *Copping a summons to appear*
- *No issue re: conflict – Mokbel, Williams, Thomas*

C/F Karen 4/5/04

- *Re: next step*
- *Discussion w/Horgan re “my difficult position”.*

579. Mr Swindells could not recall the conversation. He said the reference to ‘political pressure’ was a reference to the amount of publicity around the gangland shootings.⁷²⁸ That view was shared by Mr Allen.⁷²⁹
580. Mr Swindells said that he did not consider whether Ms Gobbo would be in a position of conflict if she represented Mr McGrath as well as Mr Williams, Mr Thomas and Mr Mokbel.⁷³⁰
581. As to this diary entry, the DPP’s position, based upon its records and the recollection of Mr Horgan was that by May 2004, Mr Horgan had reason to know that Ms Gobbo had, at some point, acted for Mr McGrath at the section 464B application and for Mr Williams in relation to the separate matter of the threat to kill in relation to Mr Bateson. Mr Horgan has no recollection of Ms Gobbo having a discussion with him in May 2004 about whether she had a conflict of interest and has no notes of that communication. Nonetheless, Mr Horgan did have concerns that Ms Gobbo had conflicts of interest, given that she appeared for a number of people involved in gangland matters, and believes he raised the issue with her on more than one occasion.⁷³¹

5 May 2004 – Swindells Speaks to Buick about McGrath Indemnity

582. On 5 May 2004, Mr Buick spoke to Mr Swindells about a visit that Mr Swindells had made to Mr McGrath that day.⁷³² Mr Swindells told Mr Buick that Mr McGrath had indicated that he was seeking a full indemnity.⁷³³
583. In his notes of the conversation, Mr Buick wrote that Ms Gobbo had discussions with Mr Horgan about Mr McGrath. He also noted that Mr McGrath had been advised that if he pleaded guilty to murder in relation to the Marshall matter the prosecution would push for a minimum sentence.⁷³⁴

Gobbo Connection with Hodson Murders

May 2004 – Gobbo Puts Dale in Touch with Williams

584. On the night of 2 May 2004, Ms Gobbo met with Mr Dale. During this meeting Mr Dale asked her to pass a message to Carl Williams asking him to contact him to arrange to meet. On 4 May 2004, she received a call from

⁷²⁸ Transcript of Mr Phillip Swindells, 27 June 2019, 3047, TRN.2019.06.27.01.C.

⁷²⁹ Transcript of Mr Andrew Allen, 26 June 2019, 2964, TRN.2019.06.26.01.C.

⁷³⁰ Transcript of Mr Phillip Swindells, 27 June 2019, 3048, TRN.2019.06.27.01.C.

⁷³¹ Exhibit RC1096 Information provided to the Royal Commission into the Management of Police Informants by Kerri Judd, Director of Public Prosecutions, 23-24, RCMPI.0104.0001.0001 @.0024-.0023.

⁷³² Exhibit RC0644 Inspector Boris Buick day book, 5 May 2004, 25, VPL.0005.0193.0172 @.0196.

⁷³³ Exhibit RC0644 Inspector Boris Buick day book, 5 May 2004, 25, VPL.0005.0193.0172 @.0196.

⁷³⁴ Exhibit RC0644 Inspector Boris Buick day book, 5 May 2004, 25, VPL.0005.0193.0172 @.0196.

Carl Williams. They arranged to meet the following day for a number of legal reasons unrelated to Mr Dale.

585. On 5 May 2004, she met with Carl and George Williams at a café in the court precinct. During the meeting Ms Gobbo passed on the message from Mr Dale requesting contact to arrange a meeting.
586. Ms Gobbo had no specific memory of providing Mr Carl Williams with an address or phone number of Mr Dale on that date. She recalled telling him at some stage that Mr Dale was working on a building site in the western suburbs somewhere. Ms Gobbo said that she did not know why Mr Dale wanted to meet Mr Carl Williams and she said that it was not her business to ask.

15 & 16 May 2004 – Christine and Terrence Hodson Murders

587. At some stage between 9:47pm on Saturday 15 May and 6:15pm the following day, Mrs Christine Hodson and her husband Mr Terrence Hodson were murdered.⁷³⁵ They were found deceased by their daughter Mandy at about 6:15pm on Sunday 16 May. A few minutes after the discovery of the bodies of his parents, Mr Andrew Hodson contacted Ms Gobbo with a view to obtaining the contact details for Detective Inspector Peter De Santo, an officer whom he knew to be associated with the Ethical Standards Division of Victoria Police.⁷³⁶
588. The following morning, search warrants were executed at the homes of Messrs Paul Dale and David Miechel, who were at that stage regarded as suspects. Mr Dale was arrested and conveyed to the Homicide Squad offices where he was interviewed and he answered questions put to him,⁷³⁷ and then he was released without charge.⁷³⁸
589. The investigation of these deaths was known as Operation Loris. Given Mr Dale was the subject of charges arising out of the Dublin Street burglary, based upon the evidence of Mr Hodson, he immediately became a suspect in the murders. There was also significant investigation into the knowledge of organised crime figures of Mr Hodson's status as a human source.

⁷³⁵ Exhibit RC1835 Coroner's Findings into Deaths with Inquest, 31 July 2015, 2, COM.0051.0001.0120 @.0002.

⁷³⁶ Exhibit RC1630 Statement of Mr Peter De Santo, 8 September 2004, 2, COM.0051.0001.0156 @.0002.

⁷³⁷ Exhibit RC1801 Transcript of interview of Paul Dale by Charlie Bezzina and Cameron Davey, 17 May 2004, COM.0051.0001.0034.

⁷³⁸ Exhibit RC1577 Statement of Mr Cameron Davey, 6 April 2009, 3, COM.0051.0001.0130 @.0003.

Gobbo's Continued Involvement with McGrath Negotiations

17 May 2004 – Meeting between OPP and Purana Investigators

590. On 17 May 2004, a meeting was held between Mr Horgan SC, Ms Anscombe, Mr Allen, Mr Swindells, Mr Buick and Mr Wilson.⁷³⁹ During this meeting, Mr McGrath's matter was discussed.⁷⁴⁰
591. Mr Buick's notes of the meeting state that the details of a possible plea were discussed, including that Mr McGrath would plead guilty to the murder of Michael Marshall, and give evidence in relation to the murder of Jason Moran.⁷⁴¹ It appeared that consideration was still being given to charging Mr McGrath with the murder of Mr Moran. It was also noted that Ms Gobbo was to contact Mr Horgan about the matter, but that she had not been in contact with him in last few weeks.⁷⁴²
592. Mr Allen said that he could not recall Ms Gobbo being mentioned at this meeting.⁷⁴³ However, he said that he did not dispute the fact she was mentioned.⁷⁴⁴
593. Mr Swindells agreed that by this stage he would have known that Ms Gobbo was representing Mr McGrath.⁷⁴⁵
594. Mr Bateson said that it was his understanding of the resolution of that meeting that a deal would be proposed whereby Mr McGrath would plead guilty to the murder of Michael Marshall, and give evidence in relation to the murders of Mr Moran and Mr Barbaro. If he did so, he would be indemnified in relation to those later murders.⁷⁴⁶

20 May 2004 – Gobbo Visits McGrath

595. On 20 May 2004, Ms Gobbo visited Mr McGrath in custody with her instructing solicitor.⁷⁴⁷
596. During this visit they discussed his options in relation to a plea deal and co-operating with police.⁷⁴⁸
597. Ms Gobbo noted in her court book that the 'position re Marshall unchanged life without parole Crown position Pirana [sic] want to know what you want to

⁷³⁹ Exhibit RC0644 Inspector Boris Buick day book, 17 May 2004, 28, VPL.0005.0193.0172 @.0199; Exhibit RC0249 Mr Andrew Allen diary, 17 May 2004, 14, VPL.0005.0130.0001 @.0014; According to Inspector Buick, this was Mr Craig Wilson: Transcript of Inspector Boris Buick, 30 October 2019, 8542, TRN.2019.10.30.01.C.

⁷⁴⁰ Exhibit RC0644 Inspector Boris Buick day book, 17 May 2004, 28, VPL.0005.0193.0172 @.0199.

⁷⁴¹ Exhibit RC0644 Inspector Boris Buick day book, 17 May 2004, 28, VPL.0005.0193.0172 @.0199.

⁷⁴² See Exhibit RC0644 Inspector Boris Buick day book, 17 May 2004, VPL.0005.0035.0226 @.0229 Cf. Exhibit RC0248 Statement of Mr Andrew Allen, 3 [13], VPL.004.0037.0001 @.0003.

⁷⁴³ Exhibit RC0248 Statement of Mr Andrew Allen, 3 [13], VPL.004.0037.0001 @.0003.

⁷⁴⁴ Transcript of Mr Andrew Allen, 26 June 2019, 2966, TRN.2019.06.26.01.C.

⁷⁴⁵ Transcript of Mr Phillip Swindells, 27 June 2019, 3049, TRN.2019.06.27.01.C.

⁷⁴⁶ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [48] VPL.0014.0027.0001 @.0009.

⁷⁴⁷ See reference to "Karen" in Exhibit RC0273 Ms Nicola Gobbo court book, 33, 20 May 2004, MINRC.0001.0014.0002 @.0033.

⁷⁴⁸ Exhibit RC0273 Ms Nicola Gobbo diary, 20 May 2004, 25, MIN.0002.0002.0002 @.0025; Exhibit RC0273 Ms Nicola Gobbo court book, 33, 20 May 2004, MINRC.0001.0014.0002 @.0033.

do. [Charge] you with Moran once [charges] laid then assistance limited'.⁷⁴⁹ She also noted 'filling him in re: Horgan'.⁷⁵⁰ She also noted 'need to make a decision to stop or move forward'.⁷⁵¹

598. From her notes, it appears that Mr McGrath told her that he had 'no choice' without a complete indemnity.⁷⁵²
599. During a Purana Taskforce meeting on 24 May 2004 attended by Mr Overland, Mr Purton, Mr Whitmore and others, there was an update regarding the fact that Mr McGrath spoke to Ms Gobbo and was wavering. He wanted Mr Swindells to visit him.⁷⁵³

26 May 2004 – Bateson and Swindells Visit McGrath

600. On 26 May 2004, Mr Bateson and Mr Swindells visited Mr McGrath.⁷⁵⁴ Mr Bateson's notes indicate that Mr McGrath wanted an estimate to be obtained from Mr Horgan as to what his minimum sentence would be.⁷⁵⁵
601. Mr Bateson noted that on this occasion, he told Mr McGrath they did not know what his minimum sentence would be. He also said that they did not require his assistance for the Marshall murder, and that if they obtained enough in relation to the Moran murder, they would not need his assistance for that either.⁷⁵⁶

June 2004 – Williams Arrested for [REDACTED]

602. On [REDACTED] June 2004, Mr Carl Williams was arrested and charged with [REDACTED] [REDACTED].⁷⁵⁷ Mr Bateson considered this event to be a significant motivating factor for Mr McGrath to co-operate with police.⁷⁵⁸
603. On 10 June 2004, Ms Gobbo had an appointment with Mr Williams crossed out in her diary.⁷⁵⁹ Presumably, that was because he was in custody. This indicates that Ms Gobbo was still dealing with Mr Williams at this point in time.

⁷⁴⁹ Exhibit RC0336, Ms Nicola Gobbo court book, 20 May 2004, 33, MIN.0001.0014.1130 @.1162.

⁷⁵⁰ Exhibit RC0336 Ms Nicola Gobbo court book, 33, 20 May 2004, MINRC.0001.0014.0002 @.0033.

⁷⁵¹ Exhibit RC0336 Ms Nicola Gobbo court book, 33, 20 May 2004, MIN.0001.0014.1130 @.1162.

⁷⁵² Exhibit RC0336 Ms Nicola Gobbo court book, 33, 20 May 2004, MIN.0001.0014.1130 @.1162.

⁷⁵³ Exhibit RC0109 Mr Terry Purton diary, 24 May 2004, 8, VPL.0005.0156.0037 @.0044.

⁷⁵⁴ Exhibit RC0272 Commander Stuart Bateson day book, 26 May 2004, 155, VPL.0005.0058.0001_S20190613 @.0155.

⁷⁵⁵ Exhibit RC0272 Commander Stuart Bateson day book, 26 May 2004, 155, VPL.0005.0058.0001_S20190613 @.0155.

⁷⁵⁶ Exhibit RC0272 Commander Stuart Bateson day book, 26 May 2004, 155, VPL.0005.0058.0001_S20190613 @.0155.

⁷⁵⁷ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 9 June 2004, 6, VPL.0015.0001.0409 @.0414.

⁷⁵⁸ Transcript of Commander Stuart Bateson, 2 July 2019, 3371, TRN.2019.07.02.01.C; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 6 [30] VPL.0014.0027.0001 @.0008.

⁷⁵⁹ Exhibit RC0273 Ms Nicola Gobbo diary, 10 June 2004, 28, MIN.0002.0002.0002 @.0028.

18 June 2004 – McGrath Plea on Unrelated Charges & Gobbo Safety Concerns

604. On 18 June 2004, Ms Gobbo appeared on behalf of Mr McGrath in a plea hearing for unrelated charges at the County Court out of the Melbourne.⁷⁶⁰ Mr Horgan appeared for the Crown.⁷⁶¹ A closed court order and a suppression order covered the hearing.⁷⁶²
605. At that time, Mr Bateson understood that there had already been contact between Mr Horgan and Ms Gobbo about a plea deal in relation to Mr McGrath's murder charges.⁷⁶³ According to Mr Bateson, prior to the hearing, he and Mr Swindells met with Mr McGrath in the cells, and Mr McGrath told them that he was still willing to co-operate with police by making statements.⁷⁶⁴
606. According to Mr Bateson, following the hearing, he spoke to Ms Gobbo. During that conversation, Ms Gobbo expressed concern to him for her own welfare if her role in Mr McGrath's plea deal was to become known.⁷⁶⁵ It was apparent she was fearful of retribution by Mr Williams.⁷⁶⁶ Using language that Mr Swindells had employed when he had spoken to Ms Gobbo the following year when he was seeking information about Mr Veniamin, Mr Bateson told her that 'our door is always open if she needed assistance'.⁷⁶⁷
607. Mr McGrath's sentence was reported at a subsequent Purana Taskforce progress meeting attended by Mr Overland, Mr Whitmore, Mr Purton, Mr Allen, Mr Swindells and Mr Ryan. Mr Purton's notes from this meeting recorded that 'Gobbo – wants to plead to murder ASAP' and that statements would be taken at the prison in the next two days.⁷⁶⁸

22 to 30 June 2004 – McGrath Statements Taken

608. Between 22 June and 30 June 2004, Messrs Bateson and Hatt attended ██████████ Prison on several occasions to obtain statements from Mr McGrath concerning the murders of Michael Marshall, Mark Moran, Jason Moran and Pasquale Barbaro.⁷⁶⁹

⁷⁶⁰ Exhibit RC0273 Ms Nicola Gobbo diary, 18 June 2004, 29, MIN.0002.0002.0002 @.0029; Exhibit RC0273 Ms Nicola Gobbo court book, 18 June 2004, 49-50, MINRC.0001.0014.0002 @.0049-.0050; Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [50] VPL.0014.0027.0001 @.0009; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 18 June 2004, 7, VPL.0015.0001.0409 @.0415.

⁷⁶¹ Exhibit RC0273 Ms Nicola Gobbo court book, 18 June 2004, 49-50, MINRC.0001.0014.0002 @.0049-.0050; Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [50] VPL.0014.0027.0001 @.0009.

⁷⁶² Exhibit RC0273 Ms Nicola Gobbo court book, 49, 18 June 2004, MINRC.0001.0014.0002 @.0049.

⁷⁶³ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [50] VPL.0014.0027.0001 @.0009.

⁷⁶⁴ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [50] VPL.0014.0027.0001 @.0009; Transcript of Commander Stuart Bateson, 2 July 2019, 3370, TRN.2019.07.02.01.C.

⁷⁶⁵ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [51] VPL.0014.0027.0001 @.0009; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 18 June 2004, 83, OPP.0001.0004.0025 @.0107.

⁷⁶⁶ Transcript of Commander Stuart Bateson, 2 July 2019, 3371, TRN.2019.07.02.01.C.

⁷⁶⁷ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [51] VPL.0014.0027.0001 @.0009.

⁷⁶⁸ Exhibit RC0109 Mr Terry Purton Diary, 18 June 2004, 79, VPL.0005.0146.0001 @.0079.

⁷⁶⁹ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 9 [52] VPL.0014.0027.0001 @.0009; See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 3 [18],

609. During this process, Mr Bateson impressed upon Mr McGrath that any indemnity or assurance that he may get would depend on him telling Mr Bateson the whole truth.⁷⁷⁰
610. Mr Bateson said that statements were taken on a computer.⁷⁷¹ The document would only be printed when it was necessary for Mr McGrath to read it.⁷⁷² The Marshall statement was prepared on 22 and 23 June.⁷⁷³ Between 25 and 29 June, the Jason Moran/Barbaro statement was drafted, and the Mark Moran statement was commenced.⁷⁷⁴ The Mark Moran statement was not completed and signed until after Ms Gobbo ceased acting for Mr McGrath later in 2004.

Gobbo Interviewed by Homicide in relation to Hodson Murders

1 July 2004 – Ms Gobbo Interviewed by Detectives Investigating the Murders of Terrence and Christine Hodson

611. On 1 July 2004, Ms Gobbo was interviewed on videotape by Detectives Bezzina and Cameron Davey as part of their investigations into the murders of Mr and Mrs Hodson, and they were interested to find out any information that she may have had concerning the deaths, and in particular, her knowledge of criminals who might have been aware that Mr Hodson was a police human source.⁷⁷⁵
612. The investigators took what might have been regarded as an unusual step to interview Ms Gobbo on videotape albeit that she was not a suspect. Ms Gobbo said she strongly objected to the interview being on tape. Nonetheless, Mr Bezzina considered that the visual recording was an appropriate means of interviewing her as it was superior to taking notes or audio recording, as the visual recording conveyed facial expressions and body language that could be preserved and gone back to.⁷⁷⁶
613. Mr Bezzina agreed that it was a unique situation and he had never before interviewed a barrister in that way.⁷⁷⁷
614. During the interview Messrs Bezzina and Davey discussed Ms Gobbo's relationship with various people of interest to them, and whether and when she was representing them, and whether she had discussed Hodson and/or his informer status with them. These included:

VPL.0014.0043.0001_ [redacted] [2];

Transcript of Commander Stuart Bateson, 2 July 2019, 3377, TRN.2019.07.02.01.C.

⁷⁷⁰ Transcript of Commander Stuart Bateson, 2 July 2019, 3375, TRN.2019.07.02.01.C.

⁷⁷¹ Transcript of Commander Stuart Bateson, 2 July 2019, 3377, TRN.2019.07.02.01.C.

⁷⁷² Transcript of Commander Stuart Bateson, 2 July 2019, 3377, TRN.2019.07.02.01.C.

⁷⁷³ Exhibit RC1876 Transcript of Committal Hearing, *R v Carl Williams*, 9 March 2005, 26, OPP.0040.0001.0001 @.0026.

⁷⁷⁴ Exhibit RC1876 Transcript of Committal Hearing, *R v Carl Williams*, 9 March 2005, 27,

OPP.0040.0001.0001 @.0027. Exhibit RC0272 Commander Stuart Bateson day book, 25 June 2004, 132, VPL.0005.0058.0001_S20190613 @.0132.

⁷⁷⁵ Exhibit RC0104 Transcript of interview of Nicola Gobbo by Charlie Bezzina and Cameron Davey, 1 July 2004, VPL.0005.0095.0001.

⁷⁷⁶ Transcript of Mr Charlie Bezzina, 14 May 2019, 1644, TRN.2019.05.14.P.

⁷⁷⁷ Transcript of Mr Charlie Bezzina, 14 May 2019, 1652, TRN.2019.05.14.P.

- Terry Hodson
- Andrew Hodson
- Shaheen Wahid
- Shane Pidoto
- Bruno D'Aloia
- Tony Mokbel
- Azzam Ahmed
- Abbey Haynes
- Colleen O'Reilly
- Jason Rodda
- Glenn O'Dea.

615. During the interview, Ms Gobbo commented upon her dissatisfaction at representing 'these people'. At pages 38 and 56 of the interview, she said she was 'sick of acting for these people'. Perhaps encouraged by these sentiments, and the fact that they considered her to be 'in with all ... of those groups' Mr Bezzina suggested that 'down the track' without wanting to put her in a position that she shouldn't be, but because of the people she came into contact with, she was obviously going to hear things, and that if she came across information that she thought they should be aware of to try and solve it, to give them a call.⁷⁷⁸

616. Ms Gobbo then responded, 'As long as I'm not video-taped, Charlie.' Mr Bezzina indicated that all he wanted was a phone call, to give them a push in the right direction, and they were not going to video tape that. Mr Davey said that obviously they wouldn't video tape that. He went on:⁷⁷⁹

MR DAVEY: And you would be dealt with the same as anyone else, you know, if you provide information you're put aside. You become anonymous and we just look ...

MS GOBBO: Yep.

MR DAVEY: ... in that direction. All right?

617. In effect, this was an invitation to Ms Gobbo to provide anonymous information about criminals with whom she interacted; in much the same way as an informer might.

618. At this point in time, in the weeks after the murders of the Hodsons, Mr Bezzina was required to brief Senior Command (being Messrs Overland, Superintendent Whitmore, and Mr Purton) along with the OPI in relation to the progress of the investigation on a weekly basis. Given the unusual circumstance of the interview with Ms Gobbo, it is probable that he would

⁷⁷⁸ Exhibit RC0104 Transcript of interview of Nicola Gobbo by Charlie Bezzina and Cameron Davey, 1 July 2004, 56-57, VPL.0005.0095.0001 @.0056-.0057.

⁷⁷⁹ Exhibit RC0104 Transcript of interview of Nicola Gobbo by Charlie Bezzina and Cameron Davey, 1 July 2004, 57, VPL.0005.0095.0001 @.0057.

have briefed his command about the interview of Ms Gobbo.⁷⁸⁰ Mr Overland agreed that Ms Gobbo would have been discussed in the briefings. He said that he wanted to know what was happening in the investigation, although he said that he did not think he would have been aware of the suggestion that Ms Gobbo might provide information to police in an anonymous way.⁷⁸¹

Gobbo Involvement in McGrath Statement Process

8 July 2004 – Further Discussion between Mr Bateson and Mr Horgan

619. On 8 July 2004, Mr Bateson had further discussions about Mr McGrath's plea deal with Mr Horgan.⁷⁸² During that discussion, Mr Bateson and Mr Horgan agreed that Mr McGrath should give evidence prior to his plea and sentence for the Marshall murder. According to Mr Bateson, Mr Horgan indicated he would have further discussions about the plea deal with Ms Gobbo.⁷⁸³ Mr Bateson had noted that Mr Horgan agreed 'will put Nicola off'.⁷⁸⁴

9 July 2004 – Bateson at Prison to See McGrath

620. On 9 July, Mr Bateson visited Mr McGrath in prison to provide Mr McGrath with statements for him to review.⁷⁸⁵

621. When he gave evidence first on 2 July 2019, Mr Bateson was not keen to concede that the statements that were shown to Mr McGrath could be described as 'drafts'. He said:

"I tend to think of a completed statement that is in draft. I'm not sure that that that was the case. They're long statements that take a fair bit of time to go through, so whether they were actually to the point of being in draft, I don't know".⁷⁸⁶

622. **On the evidence, it is open to the Commissioner to find that Mr Bateson's answer was disingenuous. That is so, because he was aware that a significant issue for consideration in this inquiry was whether he had failed to disclose in criminal proceedings committal and trial draft statements of Mr McGrath that were subjected to significant changes after Ms Gobbo had been shown them.**

⁷⁸⁰ Transcript of Mr Charlie Bezzina, 14 May 2019, 1653, TRN.2019.05.14.P.

⁷⁸¹ Transcript of Mr Simon Overland, 16 December 2019, 11389, RC_MPI_16Dec19_provisional.

⁷⁸² See Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [53] VPL.0014.0027.0001 @.0010.

⁷⁸³ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [53] VPL.0014.0027.0001 @.0010.

⁷⁸⁴ Exhibit RC0272 Commander Stuart Bateson day book, 8 July 2004, 116, VPL.0005.0058.0001_S20190613 @.0116.

⁷⁸⁵ Exhibit RC0272 Commander Stuart Bateson day book, 9 July 2004, 114, VPL.0005.0058.0001_S20190613 @.0114; Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [54] VPL.0014.0027.0001 @.0010.

⁷⁸⁶ Transcript of Commander Stuart Bateson, 2 July 2019, 3377, TRN.2019.07.02.01.C.

623. Mr Bateson asked Mr McGrath to read the statement to confirm that it was a true and correct account.⁷⁸⁷ According to Mr Bateson, Mr McGrath requested minor additions.⁷⁸⁸ Mr Bateson said that he recorded these minor additions being the last two lines (or sentences) to paragraph 52 of the statement on a computer.⁷⁸⁹
624. Mr McGrath told Mr Bateson that he would not sign the statements without Ms Gobbo's approval.⁷⁹⁰ Mr Bateson recorded these matters in his day book, but his notes about Ms Gobbo were blacked out on the page of notes that was ultimately produced to lawyers for Mr Williams, Mr Andrews and Mr Thomas at the committal proceeding for the murders of Moran, Barbaro and Marshall.⁷⁹¹
625. Mr Bateson telephoned Ms Gobbo and told her of Mr McGrath's request. She said that she could read the statements on Saturday afternoon or Sunday morning.⁷⁹² Mr Bateson recorded this matter in his day book, but likewise, the page containing this note was not disclosed.⁷⁹³
626. After the visit, Mr Bateson said that he contacted Mr Horgan to provide him with an update regarding Mr McGrath.⁷⁹⁴

10 July 2004 – Changes Made to the Statements

627. On Saturday 10 July 2004, Mr Hatt attended Ms Gobbo's chambers so that she could review the statements.⁷⁹⁵ According to Mr Hatt's statement to the Commission Ms Gobbo suggested some minor amendments to them.⁷⁹⁶ Mr Hatt's day book contains an entry of that meeting with Ms Gobbo and reference to her comments about McGrath's knowledge of whether he was aware that Marshall was to be murdered:

⁷⁸⁷ Exhibit RC0272 Commander Stuart Bateson day book, 9 July 2004, 114, VPL.0005.0058.0001_S20190613 @.0114.

⁷⁸⁸ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [54] VPL.0014.0027.0001 @.0010.

⁷⁸⁹ Transcript of Commander Stuart Bateson, 2 July 2019, TRN.2019.07.02.01.C; Transcript of Commander Stuart Bateson, 20 November 2019, 9606, TRN.2019.11.20.01.C.

⁷⁹⁰ Exhibit RC0272 Commander Stuart Bateson day book, 9 July 2004, 114, VPL.0005.0058.0001_S20190613 @.0114.

⁷⁹¹ Exhibit RC0774 Commander Stuart Bateson notes, 9 July 2004, 940, OPP.0040.0001.0001 @.0940.

⁷⁹² Exhibit RC0272 Commander Stuart Bateson day book, 9 July 2004, 112, VPL.0005.0058.0001_S20190613 @.0112.

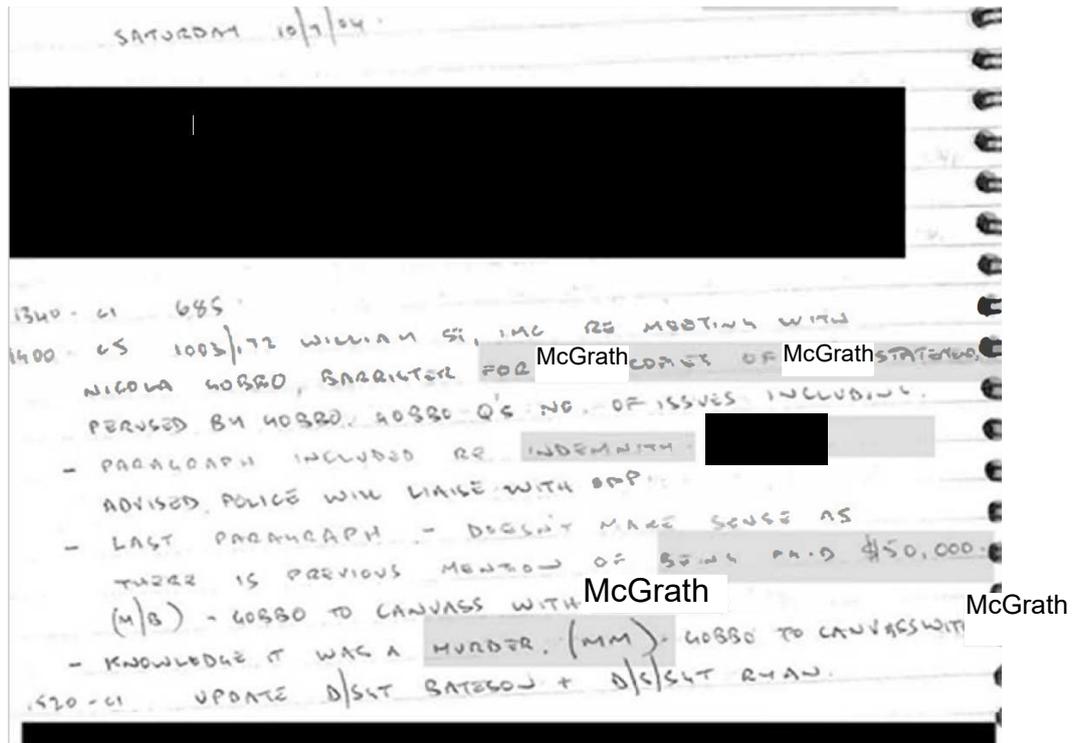
⁷⁹³ Exhibit RC0774 Commander Stuart Bateson notes, 9 July 2004, 940, OPP.0040.0001.0001 @.0940.

⁷⁹⁴ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [55] VPL.0014.0027.0001 @.0010.

⁷⁹⁵ See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 3 [19], VPL.0014.0043.0001_R1S @.0003.

⁷⁹⁶ See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 3 [19], VPL.0014.0043.0001_R1S @.0003.

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628. In evidence, Mr Hatt said that he recalled that Ms Gobbo suggested the changes to her client, not to Mr Hatt.⁷⁹⁸ Mr Hatt also said that the copies she was given on that occasion were returned to him and he took them away.⁷⁹⁹ After Mr Hatt's visit he telephoned Mr Bateson and Mr Ryan and updated them. Like Mr Bateson's notes, it seems that this note was not produced to lawyers for Mr Williams, Mr Andrews and Mr Thomas at the committal proceeding for the murders of Moran, Barbaro and Marshall.⁸⁰⁰
629. Mr Bateson whose official police diary recorded that he was on days off, and contained no record of his activities, made notes on one page of his unpaginated day book concerning his communications over the weekend. The events were recorded on a single page of Mr Bateson's day book, which was not made available to representatives for the accused at the committal proceedings.
630. Mr Bateson noted that Ms Gobbo was sceptical about Mr McGrath's claims that he did not get paid for murdering Mr Marshall, and his claims that he thought that he was going with Mr Andrews to Mr Marshall's home to collect a debt from him and not to kill him.⁸⁰¹ This view of Ms Gobbo's found its way to the Purana senior officers including Mr Overland and Mr Whitmore at the next Taskforce meeting on 12 July, no doubt from Mr Ryan's briefing.

⁷⁹⁷ Exhibit RC0263 Acting Inspector Mark Hatt day book, 10 July 2004, 34, VPL.0005.0114.0001_R1S @.0034.

⁷⁹⁸ Transcript of Acting Inspector Mark Hatt, 27 June 2019, 3138, TRN.2019.06.27.01.C.

⁷⁹⁹ Transcript of Acting Inspector Mark Hatt, 27 June 2019, 3138, TRN.2019.06.27.01.C.

⁸⁰⁰ Exhibit RC0774 Commander Stuart Bateson notes, 30 June 2004 and 12 July 2004, 349-350, OPP.0040.0001.0001 @.0349-.0350.

⁸⁰¹ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [56], VPL.0014.0027.0001 @.0010; Exhibit RC0272 Commander Stuart Bateson day book, 10 July 2004, 1, RCMPI.0053.0006.0001 @.0001.

631. In accordance with his discussion with Ms Gobbo, Mr Bateson contacted the prison and arranged for a visit by Ms Gobbo for the following day (a Sunday) to be expedited.
632. Ms Gobbo made notes in her court book that reflect her scepticism of certain aspects of Mr McGrath's statement, including specific elements of paragraph 51, 'knowledge re going to be shot' and 'more than a stand over job'.⁸⁰² She also made notes regarding a \$200k collection.

11 July 2004 – Gobbo Visit to McGrath

633. The next day, 11 July 2004, Ms Gobbo visited Mr McGrath in custody as arranged by Mr Bateson with the prison.⁸⁰³ During this visit, she obtained instructions regarding Mr McGrath's statements. She recorded the following in her court book:⁸⁰⁴

- *Me & Andrews spoke re: debt collection prior to but then realised it wasn't*
- *Cover money, supply of car then became murder*
- *Prevented deaths (info re: Hells Angels)*
- *Reported false info to Carl to prevent deaths*
- *s/ment of McGrath re: Mark Moran*
- *gave police lots of intelligence re: guns, locations*
- *ACC assistance future*
- *Can Karen please speak to Bernie re Gatto*
- *Carl's \$ laundering techniques.*

634. She then contacted Mr Bateson.⁸⁰⁵ Ms Gobbo told him that Mr McGrath was worried about his sentence and the seizure of assets. Mr Bateson then wrote in his day book; 'will be truthful'.⁸⁰⁶ Mr Bateson was apparently going to write 'more forthcoming' but changed his mind.⁸⁰⁷ Mr Bateson gave the following evidence to the Commission:

MR WINNEKE: A visit was arranged with prison staff and Ms Gobbo was advised about that and then on Sunday 11 July, that is the following day, you have a discussion with Ms Gobbo and she tells you, obviously having seen him, that he was worried about sentence and seizure of assets and will be truthful and as we established last time, it looks as if you've crossed out "more truthful"?

MR BATESON: No, just looking at that now, I think I might have started to write "more forthcoming" and crossed

⁸⁰² Exhibit RC0273 Ms Nicola Gobbo court book, 65, 11 July 2004, MINRC.0001.0014.0002 @.0065.

⁸⁰³ Exhibit RC0273 Ms Nicola Gobbo diary, 11 July 2004, 32, MIN.0002.0002.0002 @.0032.

⁸⁰⁴ Exhibit RC0273 Ms Nicola Gobbo court book, 11 July 2004, 5, MIN.0001.0014.0002_R2S @.0005.

⁸⁰⁵ Exhibit RC0272 Commander Stuart Bateson day book, 10 July 2004, 1, RCMP1.0053.0006.0001 @.0001; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 11 July 2004, 9, VPL.0015.0001.0409 @.0417.

⁸⁰⁶ Exhibit RC0272 Commander Stuart Bateson day book, 10 July 2004, 1, RCMP1.0053.0006.0001 @.0001; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 11 July 2004, 9, VPL.0015.0001.0409 @.0417.

⁸⁰⁷ Transcript of Commander Stuart Bateson, 2 July 2019, 3392, TRN.2019.07.02.01.C.

out the "more" and the "for" and then just written "truthful".

MR WINNEKE: So "will be more forthcoming" perhaps and you've crossed it out and you've said "will be truthful"?

MR BATESON: Yep.

MR WINNEKE: So effectively what she's saying to you is that, "He will now be truthful, whereas up until now he hasn't been truthful with you, he's now going to be truthful when you see him" and that's what she's established from him?

MR BATESON: Yeah. I guess it's not that he's told us a complete pack of lies, it's at the point where we shared our scepticism around the murder, yes.

MR WINNEKE: In any event what she's saying is that she's spoken to him and, "If you come and see him now he'll be more truthful"?

MR BATESON: Yeah, he'll be truthful I guess. The way I read it now all these years later is that he'll probably admit that he knew it was going to be a murder.

12 July 2004 – Revising of McGrath Statements

635. On Monday 12 July, Mr Bateson and Mr Hatt visited Mr McGrath in custody for the purposes of revising the statements following the visit from Ms Gobbo.⁸⁰⁸
636. Mr Bateson noted that at 10:00am on 12 July 2004, he met with Mr McGrath and 'some changes made to MARSHALL statement re his belief, only changes to MORAN statement was indemnity type intro at start...'.⁸⁰⁹ On the page of Mr Bateson's day book that was disclosed to the accused, these entries were blacked out.⁸¹⁰
637. Mr Bateson and Mr Hatt left the prison and printed the statements at a nearby police station, then returned to see Mr McGrath who read them and claimed to be happy, but was still not prepared to sign them until Ms Gobbo approved.⁸¹¹ Mr Bateson recorded in his diary that at 1:20pm on 12 July 2004 'McG into room. Read statements happy'.⁸¹² Later that day, Mr Bateson recorded in his notes that at 5:40pm, he spoke to Ms Gobbo 're changes to

⁸⁰⁸ See Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 3 [19], VPL.0014.0043.0001_R1S @.0003; Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [57] VPL.0014.0027.0001 @.0010; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 12 July 2004, 9, VPL.0015.0001.0409 @.0417.

⁸⁰⁹ Exhibit RC0272 Commander Stuart Bateson day book, 12 July 2004, 110, VPL.0005.0058.0001_S20190613 @.0110.

⁸¹⁰ Exhibit RC0774 Commander Stuart Bateson notes, 12 July 2004, 942, OPP.0040.0001.0001 @.0942.

⁸¹¹ Transcript of Commander Stuart Bateson, 19 November 2019, 9554, TRN.2019.11.19.01.C.

⁸¹² Exhibit RC0272 Commander Stuart Bateson day book, 12 July 2004, 109, VPL.0005.0058.0001_S20190613 @.0109.

statement'.⁸¹³ The latter entry was blacked out in documents provided to the accused.⁸¹⁴

12 July 2004 – Purana Taskforce Progress Meeting Told of Gobbo's Involvement in McGrath Statement Change

638. On 12 July 2004, at a Purana taskforce an update about the progress with Mr McGrath was provided. It was attended by Mr Overland, Mr Whitmore, Mr Gavan Ryan and another individual.⁸¹⁵ Mr Ryan's points for the meeting, as outlined in his diary, included 'McGrath (Gobbo)'.⁸¹⁶

639. Mr Purton made a note in his diary that the final read of the statements was occurring that day. Mr Purton wrote:

*(Statements) shown to Gobbo – 1 thing to change – didn't know it's going to be a murder - NG that's ridiculous.*⁸¹⁷

640. It is likely that Messrs Overland, Purton and Whitmore would have been aware that the statement had not been finalised as Mr Bateson and Mr Hatt were at the prison that day seeking to do so. Mr Purton's notes suggests that they were aware that Ms Gobbo had expressed her view about the content of the statement touching upon a very important issue for Purana. If McGrath, the star witness, did not know there was going to be a murder, it would be harder to establish on his evidence that Mr Williams had engaged him with Mr Andrews to carry one out. According to Ms Gobbo, that part of the statement needed to change. The officers would have been interested to know what the statement ultimately did convey.

641. As a consequence of these events, the members of the Purana Taskforce, Messrs Hatt, Bateson, Ryan, Whitmore, Purton and Overland were all aware of Ms Gobbo's involvement with Mr McGrath, and her preparedness to share with police, matters which quite obviously, should have remained confidential as between her and her client. This was one of the most significant breakthroughs in the Taskforce's investigation of the multiple gang killings that had occurred over a number of years.

642. It is not surprising that when Carl Williams finally pleaded guilty to multiple murders in April 2007 (having by that stage already been convicted of murdering Mr Marshall on the strength of the evidence of Mr McGrath) that Mr Bateson took the opportunity to thank Ms Gobbo.⁸¹⁸

⁸¹³ Exhibit RC0272 Commander Stuart Bateson day book, 12 July 2004, 109, VPL.0005.0058.0001_S20190613 @.0109.

⁸¹⁴ Exhibit RC0774 Commander Stuart Bateson notes, 12 July 2004, 943, OPP.0040.0001.0001 @.0943.

⁸¹⁵ In evidence, Mr Purton could not recall who the individual was (noted as 'SC' or 'SG' in his diary): see Transcript of Mr Terry Purton, 14 May 2019, 1704, TRN.2019.05.14.01.P.

⁸¹⁶ Exhibit RC0312 Mr Gavan Ryan diary, 12 July 2004, 9, VPL.0005.0120.0001 @.0009.

⁸¹⁷ Exhibit RC0109 Mr Terry Purton diary, 12 July 2004, 2, VPL.0005.0067.0005 @.0006.

⁸¹⁸ Transcript of Commander Stuart Bateson, 22 November 2019, 9904, TRN.2019.11.22.01.C; Exhibit RC0281 ICR3838 (068), 28 February 2007, 663, VPL.2000.0003.2249.

13 July 2004 – McGrath Signs Revised Statement regarding Murder of Marshall

643. Mr Bateson recorded in his diary that at 9:35am on 13 July 2004, he spoke to Ms Gobbo and 'McG right to sign statement...'.⁸¹⁹ This page was never provided to those subsequently charged with the Marshall murder.⁸²⁰
644. Mr Bateson and Mr Hatt subsequently attended the prison with the approved versions and Mr McGrath signed the two statement on 13 July 2004.⁸²¹ The statement concerning the murder of Michael Marshall contained additional changes from the original version shown to him on 9 July, and then further changes made subsequent to the document printed on Friday night and shown to Ms Gobbo on 10 July. An annotated version of Mr McGrath's signed statement that highlights the changes made between the version made following the visit with Mr McGrath on 9 July and the time that it was signed on 13 July 2004 was tendered.⁸²²
645. The other statement signed by Mr McGrath on 13 July 2004, implicated Mr Thomas, as well as Messrs Carl Williams and Andrews, in the killings of Mr Jason Moran and Mr Pasquale Barbaro.⁸²³ On the basis of that statement Mr Thomas was later arrested and Ms Gobbo purported to act for him.
646. Ms Gobbo discussed her role in this process with her handlers on a number of occasions, after she was registered as an informer for Purana the following year. On her second meeting with Mr Sandy White on 26 September 2005, when Mr Williams was about to be tried for the murder of Michael Marshall, Ms Gobbo said:⁸²⁴

MS GOBBO: And, God, that was a horrendous time 'cause Carl and George were on my back with Tony saying, you know, "Make sure he doesn't roll, make sure he doesn't roll." And of course, as history shows, I did exactly the opposite which is why I have so much to fear about that all being found out 'cause if police diary notes actually get revealed by this judge, which they might because she just might do it, one of the things it will show is that they came to my office - and I saw the statements before they got signed - I altered the statements before the witness - - -

MR SANDY WHITE: Potential statements?

MS GOBBO: Yeah. And there's no - you can't re-interpret - so far I've managed to somehow not be a person

⁸¹⁹ Exhibit RC0272 Commander Stuart Bateson day book, 13 July 2004, 108, VPL.0005.0058.0001_S20190613 @.0108.

⁸²⁰ Exhibit RC0774 Commander Stuart Bateson notes, 12-13 July 2004, 943-944, OPP.0040.0001.0001 @.0943-.0944.

⁸²¹ Transcript of Commander Stuart Bateson, 2 July 2019, 3394, TRN.2019.07.02.01.C.

⁸²² Transcript of Commander Stuart Bateson, 22 November 2011, 9817-9829, TRN.2019.11.22.01.C, and following.

⁸²³ [REDACTED] [3]-[4]; Transcript of Commander Stuart Bateson, 20 November 2019, 9569-9570, TRN.2019.11.20.01.C; Transcript of Mr Andrew Allen, 26 June 2019, 2975, TRN.2019.06.26.01.C;

Transcript of Acting Inspector Mark Hatt, 27 June 2019, 3139, TRN.2019.06.27.01.C.

⁸²⁴ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, and Peter Smith, 26 September 2005, 228, VPL.0005.0076.0004 @.0231.

that – but I'm as bad as the - I'm as bad as the witness if it turned - if anyone finds out. I - I am as good as dead walking but so far no-one's found that out. Now, it hinges upon the Supreme Court judge not - not allowing the unedited form of the police notes out into defence hands, but I'll have to worry about that tomorrow afternoon or Wednesday morning which I - I mean, I - - -

MR SANDY WHITE: Is Bateson looking after that, is he?

MS GOBBO: I think so.

MR SANDY WHITE: Stuart Bateson?

647. Ms Gobbo told her handlers, during a meeting on 20 April 2006:⁸²⁵

MS GOBBO: He - he was - he was in - I don't know if he's in Stuart's crew but he was sent to my office one Saturday. This is when McGrath was coming to an end, like, he made - he'd done all the debriefings, all that stuff and he made statements and McGrath had rung me up and said, "Look, I'm not happy with these bits and pieces," and I said, "I haven't seen the statement." McGrath said, "Well, I'm not signing them till you read them," and that was - I mean, he said to Bateson, "Bad luck, I'm not signing them till she reads them," and then for some reason it had to be on a Saturday and same thing sat in my office when I read them because he wouldn't let me obviously have copies of them and I spent that - obviously that period of time extremely paranoid afterward the fact that I knew but I couldn't say anything and sure enough, three or four weeks later I was which was - I'm not saying that was the reason. It was a combination

648. She repeated these assertions at a later meeting on 21 May 2007:⁸²⁶

MS GOBBO: I'm - I thought that the McGrath plea was done before Hodson's murder. Maybe it was just after. Look, I remember - like, time frame wise I remember the key - one of the things that happened was even though McGrath - a deal had been done insofar as he agreed to be a witness, all that stuff was being done behind everyone's back. Mark Hatt brought me his statements 'cause the statements took a while to get - - -

⁸²⁵ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, Green, 20 April 2006, 271-172, VPL.0005.0097.0011 @.0181-.182.

⁸²⁶ Exhibit RC0292 Transcript of meeting between Nicola Gobbo, Sandy White and Anderson, 21 May 2007, 180, VPL.0005.0137.0001 @.0180.

MR SANDY WHITE: Mm.

MS GOBBO: as they do. Hatt brought them to me secretly one day. He wouldn't let me have them but he stayed in my office while I edited them. You're not supposed to as I say, I edited them but, you know, I did. McGrath wanted me to check them before he signed them, blah blah. That was all done highly secretly and I remember a few weeks - I remember I wanted to do his plea and then I had my stroke and I never - I remember speaking to Stuart Bateson from - it maybe even Gavan but I think it was Stuart from the Epworth saying - really no-one believed me, "I'm in the Epworth, I've had a speaking to you on the phone." "Yeah, right. Sure you are." But I just remember that - I thought the time frame between and my stroke was closer but maybe it wasn't, maybe it was I don't know the date. Maybe I'm wrong about the Hodson's date, I thought it was May the 16th.

24 to 27 July 2004 –Gobbo Suffers a Stroke and Calls Bateson from Hospital

649. On 24 July 2004, Ms Gobbo suffered a stroke. She was taken to hospital by Mr Ahmed,⁸²⁷ an associate of Tony Mokbel, whom she was then acting for in relation to serious drug charges concerning Operation Galop. He was arrested a few weeks later in Brighton, on 16 August 2004, engaging in a drug transaction, shortly after he had dined with Ms Gobbo. These matters are dealt with in detail in the chapter concerning Operation Khadi.
650. It is evident from telephone intercept logs that, during her stay in hospital, Ms Gobbo was visited by clients including Mr Tony Mokbel.⁸²⁸
651. On 27 July 2004, Mr Bateson received a telephone call from Ms Gobbo informing him that she was in hospital after suffering a stroke. She said that she would still be acting for Mr McGrath but that he now had a new solicitor, Mr Stephen Myall.⁸²⁹

Purana Interest in Assistance from Thomas

28 July 2004 – Bateson Meets Thomas to Ask for His Help

652. On the same day, Mr Bateson's team, armed with Mr McGrath's statement were trying to encourage Mr Thomas to co-operate with police.⁸³⁰ On 27 July 2004, Mr Bateson spoke to Mr Thomas and arranged to meet with him the following day.

⁸²⁷ Transcript of Ms Nicola Gobbo, 13054, TRN.2020.02.04.01.P.

⁸²⁸ Exhibit RC1161 Telephone intercept logs, VPL.0099.0113.2919.

⁸²⁹ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [59] VPL.0014.0027.0001 @.0010; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 27 July 2004, 10, VPL.0015.0001.0409 @.0418.

⁸³⁰ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [60] VPL.0014.0027.0001 @.0010.

653. On 28 July 2004, Mr Bateson and a fellow Purana officer, Detective Senior Constable Grande met with Mr Thomas at a McDonalds restaurant.⁸³¹ They suggested to him that he should consider becoming a witness and told him that time was running out for him to take that course.⁸³²
654. Immediately following this, Messrs O'Connell, Bateson and Grande briefed Messrs Allen, Ryan and Pearce. It had been apparent that Mr Thomas had recently been involved in a dispute with Glenn Wills and had been threatened by him. There were said to be two issues:
- Mr Thomas had knowledge that Mr Condello had been planning to kill Mr Williams and said nothing
 - Mr Thomas had something that Mr Wills wanted.
655. It was determined that Mr Buick would conduct an investigation in relation to the conspiracy to murder Mr Williams.
656. Following this a meeting took place involving Messrs Bateson, Pearce, Nichols and Buick who were briefed on the above matters. Their discussion included that Milad Mokbel and George Williams had visited Ms Gobbo, following which Mr Thomas had spoken to her asking if his problems could be solved. Ms Gobbo told him no, and requested he come and see her.⁸³³
657. Two days later, on 30 July 2004, Mr O'Connell met with Messrs Overland, Purton, Whitmore, Allen and Ryan.⁸³⁴ One would presume they discussed these latest developments.

2 August 2004 – Gobbo Returns to Work

658. In the meantime, Ms Gobbo had returned to work. On 2 August 2004, she was picked up on a telephone intercept speaking to an unidentified male.⁸³⁵
659. During the discussion, Ms Gobbo spoke of needing money, as 'no one was paying and the bills keep rolling in'. She referred to a \$23,500 tax bill, as well as other debts she had, that she needed to pay off. She was apparently not happy, saying 'one day back and listening to everyone else's shit'. She said that she was reading [REDACTED] brief (see earlier paragraphs regarding the interaction between Ms Gobbo, Mr Thomas and [REDACTED] on 15 December 2003). She also said that she had returned a lot of briefs, including trials, and was only doing smaller matters. The unidentified male said that he would come into city tomorrow and have coffee with her.
660. Ms Gobbo thought the unidentified male could have been Mr Thomas but could not be certain.⁸³⁶

⁸³¹ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [61] VPL.0014.0027.0001 @.0010.

⁸³² Transcript of Commander Stuart Bateson, 2 July 2019, 3397, TRN.2019.07.02.01.C; Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 10 [61] VPL.0014.0027.0001 @.0010.

⁸³³ Exhibit RC1567 Mr Shane O'Connell day book, 28 July 2003, 6-7, VPL.0005.0272.0001 @.0006-.0007.

⁸³⁴ Exhibit RC1567 Mr Shane O'Connell day book, 28 July 2003, 8, VPL.0005.0272.0001 @.0008.

⁸³⁵ Exhibit RC1161 Telephone intercept logs, 2 August 2004, 18 VPL.0099.0113.2919 @.2936.

⁸³⁶ Transcript of Ms Nicola Gobbo, 13273, TRN.2020.02.06.01.P.

2 August 2004 – Mr Bateson’s Last Contact with Gobbo regarding McGrath

661. Mr Bateson stated that on 2 August 2004 he had his last contact with Ms Gobbo in relation to Mr McGrath. After this point negotiations concerning Mr McGrath’s plea deal, and the further statement regarding the Mark Moran murder, were handled by Mr Stratton Langslow, barrister, and Mr Myall.
662. Mr Bateson noted in his diary, ‘Nicola Gobbo’, ‘must get instructions re direct hand up (psych assessments)’ and ‘withdraw remand warrant so he doesn’t appear on 6-sep-2004’.⁸³⁷
663. Mr McGrath pleaded guilty to the murder of Mr Marshall in January 2005. He was sentenced to 18 years’ imprisonment with a minimum of 10 years. He did not face charges for his involvement in the murders of Messrs Jason Moran and Pasquale Barbaro.

Gobbo’s Need to Prove that She is Not a ‘Stooge’ for Carl Williams

664. At an early meeting with the SDU, on 26 September 2005, Ms Gobbo indicated that when she started acting for Mr McGrath, Mr Bateson thought she was a ‘stooge’ for Messrs Williams and Mokbel.⁸³⁸ She said in a later conversation that that view appeared to be shared by others in the Purana Taskforce as well.⁸³⁹ According to her, it took them a long time to see otherwise. She said:⁸⁴⁰

MS GOBBO: Anyway, it fast became apparent to me that McGrath was talking to the police and that that was the course that he wished to or the path he wished to go down and the police thought that I was a stooge for Carl and that I was there to convince him not to, and I'm sure they were surprised from - because of things they heard or things they assumed which turned out to be completely incorrect, that not only did McGrath go down the path that he went down but no-one knew about it.

MR SANDY WHITE: Mm.

MS GOBBO: They have said to me, that is, Purana, "Why - wouldn't it have been easier for you to simply say that" - you know, "to say to people when you ask, "You did"" - like, "You're the reason why he did," or, you know – and I said, "No, you just - I can't - I could never do that." And I - like, I'll be honest with you, I hope that Stuart does protect

⁸³⁷ Exhibit RC0272 Commander Stuart Bateson day book, 2 August 2004, 96, VPL.0005.0058.0001_S20190613 @.0096.

⁸³⁸ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, and Peter Smith, 26 September 2005, 230, VPL.0005.0076.0004 @.0233; Exhibit RC0281 ICR3838 (001), 16 September 2005, 2, VPL.2000.0003.1588.

⁸³⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, Paul Rowe and Steve Mansell, 16 September 2005, 20, VPL.0005.0037.0014 @.0033; Exhibit RC0281 ICR3838 (004), 1 October 2005, VPL.2000.0003.1605; Exhibit RC0489 Transcript of meeting between Nicola Gobbo, Sandy White, and Peter Smith, 1 October 2005, 314, VPL.0005.0087.0068 @.0381.

⁸⁴⁰ Exhibit RC0297 Transcript of meeting between Nicola Gobbo, Sandy White, and Peter Smith, 26 September 2005, 230, VPL.0005.0076.0004 @.0233.

me as he has so far. All it's gonna take though is for someone to ask McGrath an open-ended question in front of a jury or for - to allow him just to add on one bit about, "Did anyone see the statement before you signed it?" or, "Did you get legal advice?" unless he's advised to claim privilege or the police are really careful in what they tell him that he should and shouldn't say, and I'm not saying anything illegal. There's nothing illegal about it.

665. When these matters were raised with Mr Bateson, he said that Ms Gobbo's apparent decision to act in the best interests of Mr McGrath demonstrated she was not acting as a stooge for Messrs Williams and Mokbel.⁸⁴¹ Mr Bateson did not accept it might be troubling that Ms Gobbo may have been using Mr McGrath in order to demonstrate her loyalty to the Purana Taskforce.⁸⁴²

Gobbo on MDID Radar as a Person of Interest

10 August 2004 – Purana Contemplates Intercept Application Targeting Gobbo's Telephones

666. Despite Ms Gobbo's assistance to the Purana Taskforce in relation to the McGrath plea, she was still viewed with suspicion by the MDID.
667. Mr O'Brien said that, in around August 2004, he was receiving feedback from members of the MDID that Ms Gobbo's contact and involvement with her clients went beyond that of merely professional lawyer-client relationships.⁸⁴³
668. On 10 August 2004, Mr O'Brien, Mr Shawyer, Mr Mansell, Mr Rowe, Mr Bannon (an MDID analyst), and Mr Sandy White attended a meeting. It is apparent that the meeting related to Operation Gruel, which was an investigation of Mr Azzam Ahmed and his brother.⁸⁴⁴ Two associates of Mr Ahmed were also referred to in Mr O'Brien's diary entry about the meeting, being Mr Roth and Mr Kavanaugh. Mr Roth was one of Ms Gobbo's clients. Ms Gobbo also went on to represent Mr Kavanaugh.
669. During that meeting, Mr O'Brien requested members of the MDID to submit information reports regarding contact with Ms Gobbo in support of a possible telephone intercept application.⁸⁴⁵ Mr O'Brien said that this would have likely been an intelligence gathering exercise in relation to drug offences. However, he did not have any evidence at that stage that Ms Gobbo was involved in that offending.⁸⁴⁶

⁸⁴¹ Transcript of Commander Stuart Bateson, 19 November 2019, 9563, TRN.2019.11.19.01.C.

⁸⁴² Transcript of Commander Stuart Bateson, 19 November 2019, 9564, TRN.2019.11.19.01.C.

⁸⁴³ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 9 [40], VPL.0014.0040.0001 @.0009.

⁸⁴⁴ Exhibit RC0933 Mr James (Jim) O'Brien diary, 10 August 2004, 227, VPL.0005.0153.0014 @.0015

⁸⁴⁵ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 9 [40], VPL.0014.0040.0001 @.0009.

⁸⁴⁶ Transcript of Mr James (Jim) O'Brien, 3 September 2019, 5478, TRN.2019.09.03.01.P.

670. Material produced to the Commission shows her to be referred to in telephone intercepts of others at this time.⁸⁴⁷

After July 2004 – Police Contemplate Using Ms Gobbo as a Human Source

671. At some stage after July 2004,⁸⁴⁸ Mr Sandy White said that he was considering making an approach to Ms Gobbo to be recruited as a human source.⁸⁴⁹ After Ms Gobbo suffered the stroke, Mr Sandy White considered that she might be vulnerable to an approach.⁸⁵⁰

672. At that time, Mr Sandy White was a member of the [REDACTED], but also involved in projects related to human source management within Victoria Police, as referred to earlier in these submissions. At that point in 2004, he was in the process of preparing to lead the pilot of the SDU which commenced in November 2004. Human Source Project findings in which Mr Sandy White was involved had included recommendations as to [REDACTED] human sources, [REDACTED]. There was an identification of the [REDACTED] as human sources.

673. Mr Sandy White believed that Ms Gobbo might be a valuable recruit as she had an extensive network of social contacts with important players in the gangland killings.⁸⁵¹ He considered that she could provide intelligence about the gangland killings and the people involved, including the Williams and Mokbel organised crime groups.⁸⁵²

674. Mr Sandy White said that he had had a conversation with Mr O'Brien about making such an approach,⁸⁵³ however Mr O'Brien could not recall having had such a conversation.⁸⁵⁴

16 August 2004 – Arrest of Azzam Ahmed

675. On 16 August 2004, Mr Ahmed was arrested by Brighton police.⁸⁵⁵ During a search of his car, a water bill in the name of Ms Gobbo was found.⁸⁵⁶

676. Members of the MDID subsequently attended and inspected the exhibit in the days thereafter.

⁸⁴⁷ Exhibit RC1161 Telephone intercept Logs 2129 [redacted] 2230-00 (Glen Wills), VPL.0099.0113.2919.

⁸⁴⁸ Transcript of Mr Sandy White, 31 July 2019, 3644, RC_MPI_31Jul19_provisional.

⁸⁴⁹ Transcript of Mr Sandy White, 31 July 2019, 3643, RC_MPI_31Jul19_provisional.

⁸⁵⁰ Transcript of Mr Sandy White, 31 July 2019, 3643, RC_MPI_31Jul19_provisional.

⁸⁵¹ Transcript of Mr Sandy White, 31 July 2019, 3643, RC_MPI_31Jul19_provisional.

⁸⁵² Transcript of Mr Sandy White, 31 July 2019, 3643, RC_MPI_31Jul19_provisional.

⁸⁵³ Transcript of Mr Sandy White, 31 July 2019, 3645, RC_MPI_31Jul19_provisional.

⁸⁵⁴ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5485, RC_MPI_04Sep19_provisional.

⁸⁵⁵ Exhibit RC0863 Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, 1 [1.1] VPL.0005.0147.0063 @.0063.

⁸⁵⁶ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 26, VPL.0005.0147.0001 @.0026.

26 August 2004 – The MDID Creates a Profile on Ms Gobbo

677. On 26 August 2004, the MDID produced an updated profile in relation to Ms Gobbo.⁸⁵⁷
678. The Profile listed intelligence holdings it had that referred to Ms Gobbo, including a number of instances in relation to Operation Galop.⁸⁵⁸ It also referred to the fact that her card was found on the person of ██████████ during his arrest as part of Operation ██████████ in September 1997. A day previously, it was recorded that he had handed Ms Gobbo's business card to a ██████████.⁸⁵⁹
679. The Profile referred to Ms Gobbo's criminal history.⁸⁶⁰ It noted that she was an 'Extensive associate of figures of criminal underworld, both via legal representation and personal relationships. See Information Report attached.'⁸⁶¹
680. The Profile noted a number of searches were undertaken on 16 August 2004, including ASIC, Australia Post and Citylink. This indicates that the MDID were taking an active interest in investigating Ms Gobbo at this time.⁸⁶²
681. The Profile mentioned the water bill found in Mr Ahmed's car.⁸⁶³ It also noted that Ms Gobbo was currently tagged at MDID regarding Operation Gruel.⁸⁶⁴

Conflict issues arise as Gobbo acts for Thomas

16 August 2004 – Thomas arrested & Gobbo acts; serious conflict known to police

682. On 16 August 2004, as a consequence of the statement signed by Mr McGrath on 13 July 2004, Mr Thomas was arrested and charged with murdering of Mr Jason Moran and Mr Pasquale Barbaro.⁸⁶⁵ Mr Bateson attended the arrest, along with Mr L'Estrange, Mr Milne, Ms Kerley, Mr Hatt and Mr Richards.⁸⁶⁶

⁸⁵⁷ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 2, VPL.0099.0113.2576.

⁸⁵⁸ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 2, VPL.0099.0113.2576 @.2577.

⁸⁵⁹ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo dated 26 August 2004, 3, VPL.0099.0113.2576 @.2578.

⁸⁶⁰ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 5, VPL.0099.0113.2576 @.2580.

⁸⁶¹ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 4, VPL.0099.0113.2576 @.2579.

⁸⁶² Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 5, VPL.0099.0113.2576 @.2580.

⁸⁶³ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 7, VPL.0099.0113.2576 @.2582.

⁸⁶⁴ Exhibit RC1162 Major Drug Investigation Division profile of Ms Nicola Gobbo, 26 August 2004, 7, VPL.0099.0113.2576 @.2582.

⁸⁶⁵ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 11 [63] VPL.0014.0027.0001 @.0011.

⁸⁶⁶ Exhibit RC0272 Commander Stuart Bateson day book, 16 August 2004, 89, VPL.0005.0058.0001_S20190613 @.0089.

683. When Mr Thomas was arrested, he asked to speak to Mr Valos. It appears Mr Valos could not be contacted.⁸⁶⁷ Mr Thomas then asked to speak to Ms Gobbo.⁸⁶⁸ That request was facilitated by police.⁸⁶⁹ Mr Thomas contacted and received advice from Ms Gobbo as his nominated lawyer prior to his record of interview.⁸⁷⁰ According to Mr L'Estrange, Mr Thomas gave a mostly 'no comment' interview.⁸⁷¹
684. Following the interview, Mr Bateson spoke to Ms Gobbo who advised that she would ring Mr Thomas' personal partner at his request and asked to be advised if he was remanded. Mr Bateson agreed to do so.⁸⁷²
685. On the same day, Messrs Andrews and Williams were served with notices of trial in relation to the murders of Messrs Moran, Barbaro and Marshall.⁸⁷³

31 August 2004 – Gobbo Appears for Thomas in Application to Interview Him for Earlier Murders

686. On 31 August 2004, Victoria Police made an application under section 464B of the Crimes Act to take Mr Thomas out of prison to interview him in relation to the murder of Paul Kallipolitis.⁸⁷⁴ The application was heard and granted in the Melbourne Magistrates' Court. Ms Gobbo and Mr Valos represented Mr Thomas.⁸⁷⁵
687. Mr Buick and Mr Bateson were present in court.⁸⁷⁶ Mr Bateson spoke to Mr Thomas about the possibility of his giving evidence.⁸⁷⁷ Mr Bateson said that Mr Thomas continued to express a willingness to co-operate with police. He considered that this was based on self-interest, as he was focussed on obtaining a lesser sentence.⁸⁷⁸

⁸⁶⁷ Exhibit RC0272 Commander Stuart Bateson day book, 16 August 2004, 88, VPL.0005.0058.0001_S20190613 @.0088.

⁸⁶⁸ Exhibit RC0272 Commander Stuart Bateson day book, 16 August 2004, 88, VPL.0005.0058.0001_S20190613 @.0088.

⁸⁶⁹ Exhibit RC0272 Commander Stuart Bateson day book, 16 August 2004, 88, VPL.0005.0058.0001_S20190613 @.0088.

⁸⁷⁰ Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 4 [11], VPL.0014.0036.0001 @.0004; Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 11 [63] VPL.0014.0027.0001 @.0011; (Mr Thomas originally sought to contact Mr Jim Valos, but as he was unavailable he nominated Ms Gobbo); Cf. Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 4 [23], VPL.0014.0043.0001_R1S @.0004.

⁸⁷¹ Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 4 [11], VPL.0014.0036.0001 @.0004.

⁸⁷² Exhibit RC0272 Commander Stuart Bateson day book, 16 August 2004, 88, VPL.0005.0058.0001_S20190613 @.0088.

⁸⁷³ [REDACTED]

⁸⁷⁴ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 11 [65] VPL.0014.0027.0001 @.0011.

⁸⁷⁵ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 5 [15], VPL.0014.0029.0001 @.0005; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 31 August 2004, 11, VPL.0015.0001.0409 @.0419; Exhibit RC0644 Inspector Boris Buick day book, 31 August 2004, 7, VPL.0005.0193.0030 @.0036.

⁸⁷⁶ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 5 [15], VPL.0014.0029.0001 @.0005; Transcript of Inspector Boris Buick, 30 October 2019, 8557; Exhibit RC0644 Inspector Boris Buick day book, 31 August 2004, 7, VPL.0005.0193.0030 @.0036.

⁸⁷⁷ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 11 [65] VPL.0014.0027.0001 @.0011.

⁸⁷⁸ Exhibit RC0269A Statement of Commander Stuart Bateson, 7 May 2019, 11 [65] VPL.0014.0027.0001 @.0011.

Evidence of Gobbo and Police in relation to Conflict

Gobbo's Understanding of Her Conflicted Position when Representing Thomas

688. By the time Mr Thomas was charged, Ms Gobbo had no business remaining involved in any proceedings brought on the basis of the information in Mr McGrath's statement, even if she could properly have been involved before that time.
689. It is submitted that there is no question that Ms Gobbo understood that she was conflicted, having acted for Mr McGrath at a time that he decided to give evidence against Mr Thomas and advised him about the content of his statements. It is submitted that there can be no excuse for her continuing to act for Mr Thomas.

690. **On the evidence, it is open to the Commissioner to find that:**
- 690.1. **Ms Gobbo was aware of the circumstances in which Mr McGrath's statements had been made, and therefore the potential weakness in his evidence, and yet she had a personal interest in Mr Thomas not finding out about her role**
- 690.2. **members of Victoria Police who were aware of her role, including Messrs Bateson and Hatt, and were aware that Mr Thomas would not be told because of a claim of 'public interest' may have contributed to a potential injustice.**

691. In the *AB v CD & EF* litigation,⁸⁷⁹ when Ms Gobbo was giving evidence before Justice Ginnane, she tried to justify her representation of Mr Thomas by asserting that she did not know what was in Mr McGrath's statements and had not taken part in the statement taking process.⁸⁸⁰ This occurred when she was being cross-examined by Mr Brind Woinarski QC about the circumstances of her having acted for Mr Thomas in 2004 when he had been charged with the murders of Mr Moran and Mr Barbaro, the DPP had directly presented her client and his co-accused, and an application was made before Justice Gillard to stay that proceeding in order that a committal take place. Mr Woinarski put to Ms Gobbo part of the judgement of Justice Gillard:⁸⁸¹

MR WOINARSKI: And could I take you to paragraph 48. There's a reference to a submission made by Mr Heliotis, and then the judgment reads, and I'll read it out, "The evidence against Mr Andrews also rests

⁸⁷⁹ Exhibit RC1177 Transcript of proceedings, (Supreme Court of Victoria, *AB v CD and EF v CD*, Ginnane J, 1 March 2017), COR.1000.0001.0357.

⁸⁸⁰ Exhibit RC1177 Transcript of proceedings, (Supreme Court of Victoria, *AB v CD and EF v CD*, Ginnane J, 1 March 2017), COR.1000.0001.0357.

⁸⁸¹ Exhibit RC1177 Transcript of proceedings, (Supreme Court of Victoria, *AB v CD and EF v CD*, Ginnane J, 1 March 2017), 373-374, COR.1000.0001.0357 @.373-374.

substantially on the statements of^{McGrath}-that's Mr McGrath?

MS GOBBO: Yes.

MR WOINARSKI: "Ms Gobbo makes the same point and emphasises that the evidence against Mr Thomas is also resting substantially on the statement of^{McGrath}. She makes the further point that the evidence involving Mr Thomas' alleged involvement in the murders of Moran and Barbaro is vague and lacks certainty. She also makes the point that Mr Thomas is not charged with the murder of Mr Marshall, and there is no evidence to suggest he is in any way connected with it, but, more importantly, because it seems common ground that Mr Barbaro was not the subject of any killing arrangement, the evidence involving Mr Thomas in respect of the killing of Mr Barbaro is non-existent. The latter point is of substance on the material I have considered." Do you see that?

MS GOBBO: Yes. I - I actually have a recollection of - of doing the written - his Honour wanted written submissions.

MR WOINARSKI: My question is very simple: does that fairly - paragraph 48, in particular fairly summarise submissions that you made on behalf of Mr Thomas?

MS GOBBO: Yes, I can't remember whose junior I was in relation to this. Thomas was - yes, yes, it does. Yes.

MR WOINARSKI: It doesn't appear that you appeared on that occasion with a leader?

MS GOBBO: No, no, but Thomas was someone who was too important - he was one of those underworld figures that was - had to have a - all of them had to have QCs.

MR WOINARSKI: Did you inform Mr Thomas that you had acted for Mr McGrath?

MS GOBBO: Yes, he knew that.

MR WOINARSKI: And did you inform Mr Thomas that because you had acted for Mr McGrath, it would not be appropriate for you to represent him?

MS GOBBO: Yes. He knew that I couldn't cross and appear at a committal proceeding because of that issue.

MR WOINARSKI: Well, why were you appearing for him on this occasion?

- MS GOBBO:* *Because this was an application to ask the judge to order that they have a committal.*
- MR WOINARSKI:* *And you were making submissions about the evidence of somebody whom you had previously acted for?*
- MS GOBBO:* *Correct, but I didn't know what the - **I didn't know what the content of his statements was.***
- MR WOINARSKI:* *You didn't know the content of his statement? Do you want to maintain that?*
- MS GOBBO:* *Of- of Mr McGrath's statements?*
- MR WOINARSKI:* *Yes?*
- MS GOBBO:* ***No, I wasn't part of his statement making process.***

692. **On the evidence, it is open to the Commissioner to find that Ms Gobbo's evidence before Justice Ginnane as to not knowing the contents of Mr McGrath's statements and that she was not part of his statement making process was untruthful, and most likely deliberately so. That is so for the reasons set out in [695] below.**

693. Ms Gobbo was asked about that evidence during this inquiry: ⁸⁸²

- MS GOBBO:* *No, I edited them, that's right. I didn't make the statements with him. And I don't think, I don't think I read them before he signed them.*
- MR WINNEKE:* *Right?*
- MS GOBBO:* *Um, but I wasn't part of him sitting down and drafting them, but I certainly at some point looked at them and put corrections or notes on them.*
- MR WINNEKE:* *You were conscious of that and you remembered that when you gave evidence to Justice Ginnane, is that right, Ms Gobbo?*
- MS GOBBO:* *I can't—I'd be making it up if I said I could remember what my, where my head was that day.*
- MR WINNEKE:* *Yeah, all right. And then on the following page you went further and you were asked about similar matters and you said at around line 12, "Because I don't, I certainly didn't partake in any*

⁸⁸² Transcript of Ms Nicola Gobbo, 13412-13413, TRN.2020.02.07.01.P.

statement making that Mr McGrath did", right, do you agree with that, that's what you said?-

MS GOBBO: I just want to read it, sorry.

MR WINNEKE: Yeah?

...

MR WINNEKE: Do you agree that the evidence that you gave to Justice Ginnane wasn't the truth?

MS GOBBO: No, I don't remember.

MR WINNEKE: Why do you say it was the truth? How do you say it was the truth?

MS GOBBO: If you want to pick about the wording used.

MR WINNEKE: Yes?

MS GOBBO: What I said in - if you start from the page before where he says, um, "But you know what he said about Mr Thomas", onwards, what I said there is what happened. Um, if you go down to, um - I wasn't involved in the - what I've said there at line 10, whatever process happened with the police taking his statements.

MR WINNEKE: Right?

MS GOBBO: And I didn't - and, true, I didn't partake in or read final versions and, "Yep, that's okay for you to sign". I think that happened after hospital.

694. The fact is, not only was Ms Gobbo involved in the statement taking process (by any reasonable understanding of that phrase), she knew in minute detail what was in Mr McGrath's statements, as was apparent when she asked Justice Gillard to stay the direct presentment of her client after he was charged on the basis of Mr McGrath's statement.⁸⁸³
695. It is submitted that Ms Gobbo knew very well she had been aware of the content of Mr McGrath's statements and that she had played a role in the statement making process, having referred to it on numerous occasions previously including:
- 695.1. on 16 September 2005, in her first meeting with the SDU, she had told them about her protection by the Purana Taskforce in relation to these matters and concerns about her role being revealed during Carl Williams trial⁸⁸⁴
- 695.2. on 20 April 2006, in the context of a meeting with the SDU in which she was reading transcripts of conversation between Mr Thomas and Messrs O'Brien and Bateson. These had been provided to her

⁸⁸³ Exhibit RC1886 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Justice Teague, 7 December 2004), 48-51, RCMP1.0108.0002.0009 @.0049-.0052.

⁸⁸⁴ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, Paul Rowe and Steve Mansell, 16 September 2005, 19-24, VPL.0005.0037.0014 @.0032-.0037.

through the SDU for the purposes of assisting in her obtaining instructions from Mr Thomas. As Ms Gobbo read transcript where Mr Thomas was asking for an opinion of Ms Gobbo's trustworthiness, she told the SDU that Mr Bateson could not tell Mr Thomas that she had helped them get Mr McGrath over the line, and about amendments she made to Mr McGrath's statements which *'from the defence barrister's point of view, that's a critical thing to cross-examine about, who made the changes, who did this and who worded it. That never came out but I've got to face the – face the risk of that coming out at the trial so my fear that it all hasn't ---'*⁸⁸⁵

- 695.3. on 20 May 2007, during a meeting with the SDU, Ms Gobbo referred to McGrath's statements having been brought to her secretly, and the Detective, Mark Hatt, staying in her office whilst she edited them⁸⁸⁶
- 695.4. on 1 February 2009, during a meeting with Mr O'Connell, Ms Gobbo spoke about proof-reading Mr McGrath's statement, and his agreeing to co-operate being a significant turning point⁸⁸⁷
- 695.5. on 14 September 2011, Ms Gobbo explained to Mr Buick the way in which she had assisted with Messrs Cooper and Thomas, providing detailed information to police about what they would be able to say to statement takers and that this had occurred from the time of her dealings with Mr McGrath⁸⁸⁸
- 695.6. on 7 July 2015, Ms Gobbo wrote to Assistant Commissioner Stephen Fontana setting out in detail why she considered she was entitled to a reward for her assistance to Victoria Police over a number of years as a human source. She referred to having provided Mr Bateson with high value information prior to her stroke in July 2004 and again afterwards, and having played a pivotal role in convincing Mr McGrath to 'roll over' on Messrs Williams, Andrews and 'others' (clearly preferring not to refer her next client, Mr Thomas, by name).⁸⁸⁹

696. **On the evidence, it is open to the Commissioner to find that Ms Gobbo's evidence to the Commission was deliberately evasive and suggests that she was aware that she had deliberately lied, or at best knowingly misled the Supreme Court whilst she was on oath.**

⁸⁸⁵ Exhibit RC0492 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 170-171, VPL.0005.0097.0011 @.0180-.0181.

⁸⁸⁶ Exhibit RC0272 Transcript of meeting between Nicola Gobbo, Sandy White and Anderson, 21 May 2007, 178-179, VPL.0005.0137.0001 @.0178-.0179.

⁸⁸⁷ Exhibit RC1352 Transcript of meeting between Nicola Gobbo and Shane O'Connell, 1 February 2009, 86, VPL.0100.0237.6854 @.6939.

⁸⁸⁸ Exhibit RC0679 Transcript of meeting between Nicola Gobbo and Boris Buick, 14 September 2011, 9-13, VPL.0100.0068.0395 @.0403-.0407.

⁸⁸⁹ Exhibit RC1433 Letter from Nicola Gobbo to Stephen Fontana, 30 June 2015, COR.1000.0003.0100.

Police Understanding of Gobbo's Conflicted Position when Representing Thomas

697. A clear conflict existed when Ms Gobbo began acting for Mr Thomas. The case against him rested upon the evidence of Mr McGrath.
698. The credit, truthfulness and reliability of McGrath would at all times be an important factor in the course that he took, and Ms Gobbo was never going to be prepared to put her own interests ahead of Mr Thomas' and disclose to him her role. The police officers who were aware of Ms Gobbo role, and the non-disclosure of it on 'public interest' grounds would, axiomatically, have known that Mr Thomas would never find out, and must therefore have known he would be deprived of independent and thorough representation.
699. It is apparent that members of Victoria Police were aware of Ms Gobbo's conflicted situation and did nothing about it.
700. Mr Bateson said that, at the time, he did not see a conflict of interest in Ms Gobbo being contacted by Mr Thomas.⁸⁹⁰ Additionally, irrespective of whether or not he identified a conflict, he did not consider that he, as a Detective Sergeant, needed to resolve such issues.⁸⁹¹
701. Mr Bateson said that, at that time, conflicts of interest were common in relation to criminal matters, as there was small 'cadre' of criminal lawyers representing organized crime figures.⁸⁹²
702. Mr Bateson did say, however, that he later recognised that there was a conflict, and advised Mr Thomas that he would be better off with other legal representation.⁸⁹³ He agreed that he did not make it 'quite clear' to Mr Thomas that Ms Gobbo had a conflict of interest.⁸⁹⁴
703. Mr Allen said that he considered the fact that Mr Thomas had requested Ms Gobbo be his solicitor advocate to be 'perfectly acceptable'.⁸⁹⁵ Despite the scenario that was in play, where Mr Thomas was charged on the basis of Mr McGrath's evidence which Ms Gobbo had 'vetted', Mr Allen said that it was an individual's right to ask for a specific lawyer, and the role of the police 'is to facilitate that request'.⁸⁹⁶
704. Mr Allen did agree that, if he was aware of a significant potential conflict of interest such as the one described, 'if there was a clear conflict of interest and it was at some risk of endangering an impending prosecution, there would certainly be room to seek further advice'.⁸⁹⁷
705. Asked whether he was aware of any concerns about the capacity of Ms Gobbo to act for Mr Thomas, he said 'no, I don't recall any concerns. I took the view, and have the view that she was a legal professional who was

⁸⁹⁰ Transcript of Commander Stuart Bateson, 2 July 2019, 3398, TRN.2019.07.02.01.C.

⁸⁹¹ Transcript of Commander Stuart Bateson, 2 July 2019, 3399, TRN.2019.07.02.01.C.

⁸⁹² Transcript of Commander Stuart Bateson, 2 July 2019, 3399, TRN.2019.07.02.01.C.

⁸⁹³ Transcript of Commander Stuart Bateson, 2 July 2019, 3398-3399, TRN.2019.07.02.01.C.

⁸⁹⁴ Transcript of Commander Stuart Bateson, 2 July 2019, 3398, TRN.2019.07.02.01.C.

⁸⁹⁵ Transcript of Mr Andrew Allen, 26 June 2019, 2976, TRN.2019.06.26.01.C.

⁸⁹⁶ Transcript of Mr Andrew Allen, 26 June 2019, 2976, TRN.2019.06.26.01.C.

⁸⁹⁷ Transcript of Mr Andrew Allen, 26 June 2019, 2979, TRN.2019.06.26.01.C.

asked by certain accused people to represent them and she was a legal representative trying to get the best deal for her clients ...'.⁸⁹⁸

706. Mr Swindells said that the potential conflict of Ms Gobbo acting for both individuals did not '[come] into [his] thought process at the time'. He could not recall whether these issues ever occurred to him.⁸⁹⁹ When he became aware that Ms Gobbo was representing Mr Thomas, he did not see any issues with her involvement.⁹⁰⁰
707. Mr Swindells acknowledged that, if Mr Thomas was seeking to challenge the charges, it would be highly likely that he would have been seeking disclosure, including the circumstances of the drafting of Mr McGrath's statement.⁹⁰¹
708. Mr Swindells did not recall any concerns being raised during or around this period of time about Ms Gobbo being able to adequately represent the interests of Mr Thomas.⁹⁰²
709. Mr L'Estrange said that at the time, it did not cause him any concern or problem that Ms Gobbo was acting for Mr Thomas in light of her role with Mr McGrath.⁹⁰³ However, he acknowledged that he could see with the benefit of hindsight that it was problematic.⁹⁰⁴
710. Mr Hatt also considered that the issue of conflict and whether Ms Gobbo could adequately represent Mr Thomas' interests did not involve the police, and should be a discussion that should occur between lawyer and client.⁹⁰⁵ He did not 'see a problem'.⁹⁰⁶ According to Mr Hatt, in any event, it was not his 'option' to flag as an issue. He said that his 'superiors knew exactly what was going on'.⁹⁰⁷ If that particular set of circumstances arose today, and a junior officer approached him for guidance, he said that he would advise them to 'tread very carefully and make an ongoing assessment throughout'.⁹⁰⁸
711. According to Mr Hatt, he was not involved in the Thomas matters until 2006, when he took over the management of Mr Thomas.⁹⁰⁹ He may not have been aware of Ms Gobbo's representation of Mr Thomas until around that time.⁹¹⁰ He considered that he may have become aware at a meeting with Mr Thomas' legal representatives on 13 July 2006, at which Ms Gobbo was present.⁹¹¹ Mr Hatt also attended a meeting with Mr Bateson, Ms Gobbo and

⁸⁹⁸ Transcript of Mr Andrew Allen, 26 June 2019, 2979, TRN.2019.06.26.01.C.

⁸⁹⁹ Transcript of Mr Philip Swindells, 27 June 2019, 3048, TRN.2019.06.27.01.C.

⁹⁰⁰ Transcript of Mr Philip Swindells, 27 June 2019, 3054, TRN.2019.06.27.01.C.

⁹⁰¹ Transcript of Mr Philip Swindells, 27 June 2019, 3055, TRN.2019.06.27.01.C.

⁹⁰² Transcript of Mr Philip Swindells, 27 June 2019, 3055, TRN.2019.06.27.01.C.

⁹⁰³ Transcript of Detective Senior Sergeant Nigel L'Estrange, 28 June 2019, 3220, RC_MPI_27Jun19_provisional.

⁹⁰⁴ Transcript of Detective Senior Sergeant Nigel L'Estrange, 28 June 2019, 3221, RC_MPI_27Jun19_provisional.

⁹⁰⁵ Transcript of Acting Inspector Mark Hatt, 27 June 2019, 3143, TRN.2019.06.27.01.C.

⁹⁰⁶ Transcript of Acting Inspector Mark Hatt, 27 June 2019, 3147, TRN.2019.06.27.01.C; 28 June 2019, 3147, RC_MPI_28Jun19_provisional.

⁹⁰⁷ Transcript of Acting Inspector Mark Hatt, 27 June 2019, 3143, TRN.2019.06.27.01.C.

⁹⁰⁸ Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3147, RC_MPI_28Jun19_provisional.

⁹⁰⁹ Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3149, RC_MPI_28Jun19_provisional.

⁹¹⁰ Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3149, RC_MPI_28Jun19_provisional.

⁹¹¹ Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3149, RC_MPI_28Jun19_provisional.

Mr Valos on 19 February 2006 relating to Mr Thomas.⁹¹² Mr Hatt did not concede that it was inevitable that Ms Gobbo was representing Mr Thomas at that point, or that that fact would have been apparent to him at that meeting.⁹¹³

712. Mr Ryan agreed that a conflict existed.⁹¹⁴ He further agreed that a person who was charged with a criminal offence should be able to expect that the lawyer representing them will not have assisted the person who implicated them in the criminal offence.⁹¹⁵ However, Mr Ryan said that the police did not get involved in telling lawyers who to represent.⁹¹⁶ Mr Ryan alluded to the fact that the 'pecking order' meant that there existed 'a difficulty...highlighting something like that'.⁹¹⁷ Mr Ryan said that he was not aware of occasions where Victoria Police took an interest in an accused's legal representation and took action against any situation of conflict.⁹¹⁸
713. Mr Buick said that he was the nominal informant for the McGrath matter. Mr Buick said that his ongoing engagement with the investigation dropped off, and the brief of evidence was prepared by Mr Bateson's crew.⁹¹⁹ He said that he did not regard it as the responsibility of a police investigator to seek to navigate a barrister's conflict issues, or how best to deal with these.⁹²⁰
714. Mr Buick initially did not consider that Mr Thomas was entitled to know that the statement which was being used against him had been substantially altered after scepticism was expressed about it by his own barrister, who had been representing Mr McGrath at the time.⁹²¹ He did agree ultimately agree that if a statement had been changed as suggested it was something that he was entitled to know of, subject to a claim for public interest immunity (PII), although he found it hard to explain what the public interest in concealing that information would be.⁹²²
715. Mr Buick did, however, agree that if there was a deliberate failure to disclose to Mr Thomas the fact that Ms Gobbo represented Mr McGrath in Mr McGrath's statement making process this was wrong.⁹²³ Obviously that answer would be dependent upon whether there was a valid claim made for public interest immunity which was upheld.
716. Mr Overland said that he would have been kept updated about the progress in relation to potential witnesses 'rolling' but would not know who was acting for these witnesses.⁹²⁴

⁹¹² Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3154, RC_MPI_28Jun19_provisional.

⁹¹³ Transcript of Acting Inspector Mark Hatt, 28 June 2019, 3154-3155, RC_MPI_28Jun19_provisional.

⁹¹⁴ Transcript of Mr Gavan Ryan, 13 August 2019, 4452, TRN.2019.08.13.01.C.

⁹¹⁵ Transcript of Mr Gavan Ryan, 13 August 2019, 4451, TRN.2019.08.13.01.C.

⁹¹⁶ Transcript of Mr Gavan Ryan, 13 August 2019, 4451, TRN.2019.08.13.01.C.

⁹¹⁷ Transcript of Mr Gavan Ryan, 13 August 2019, 4451-4452, TRN.2019.08.13.01.C.

⁹¹⁸ Transcript of Mr Gavan Ryan, 13 August 2019, 4452, TRN.2019.08.13.01.C.

⁹¹⁹ Transcript of Inspector Boris Buick, 30 October 2019, 8537, TRN.2019.10.30.01.C.

⁹²⁰ Transcript of Inspector Boris Buick, 30 October 2019, 8554, TRN.2019.10.30.01.C.

⁹²¹ Transcript of Inspector Boris Buick, 30 October 2019, 8554, TRN.2019.10.30.01.C.

⁹²² Transcript of Inspector Boris Buick, 30 October 2019, 8554, TRN.2019.10.30.01.C.

⁹²³ Transcript of Inspector Boris Buick, 30 October 2019, 8556, TRN.2019.10.30.01.C.

⁹²⁴ Transcript of Mr Simon Overland, 17 December 2019, 11478, TRN.2019.12.17.01.P.

Gobbo's Continued Involvement with Thomas and Others

30 August 2004 – DPP Filed Direct Presentment in relation to Proceedings against Williams, Thomas and Andrews

717. On 30 August 2004, the DPP commenced trial proceedings against Mr Williams, Mr Thomas, and Mr Andrews by filing a direct presentment containing three counts of murder in the Supreme Court. Counts one and two accused Messrs Williams, Andrews and Thomas of the murders of Jason Moran and Pasquale Barbaro, and Count three accused Messrs Williams, Andrews and McGrath with the murder of Michael Marshall. The effect and purpose of the presentment was that the accused would be denied a committal proceeding.⁹²⁵
718. Briefs of evidence were served on the same day, and it was the intention of the Crown to prosecute the three counts in the one trial.

September 2004 – ACC examinations

719. During this time, Victoria Police were working with the Australian Crime Commission (ACC) who conducted examinations of various witnesses. A number of examinations of various witness occurred for the purposes of the *Australian Crime Commission Act 2002 (Cth)* or the *Australian Crime Commission (State Provisions) Act 2003 (Vic)*.⁹²⁶
720. Evidently, Crown Prosecutors from the OPP would attend these hearings.⁹²⁷ Mr Buick said that he did not know the 'thought' behind having a Crown Prosecutor involved in hearings.⁹²⁸ He agreed that it could be to provide the OPP with maximum knowledge of what went on in particular cases.⁹²⁹ Mr Buick believed that those hearings would be disclosed, and the ACC provided transcripts in response to subpoenas.⁹³⁰
721. Mr Thomas was examined at the ACC a number of times in 2004.
722. On 6 September 2004, Ms Gobbo represented Mr Thomas before the ACC.⁹³¹ Mr Thomas was cross-examined by Mr Horgan. The questioning primarily related to Mr Faruk Orman and the murder of Mr Paul Kallipolitis (which had occurred between 12 and 15 October 2002).⁹³²
723. On 9 September 2004, Ms Gobbo appeared for Mr Thomas for the continuation of that examination.⁹³³ Mr Thomas told numerous untruths

⁹²⁵ [REDACTED]

⁹²⁶ Transcript of Mr Andrew Allen, 26 June 2019, 2960, TRN.2019.06.26.01.C. See, eg, Exhibit RC0932F Purana Update, 28 June 2004, VPL.0100.0012 noting persons of interest examined at ACC.

⁹²⁷ Transcript of Mr Andrew Allen, 26 June 2019, 2960, TRN.2019.06.26.01.C.

⁹²⁸ Transcript of Inspector Boris Buick, 30 October 2019, 8559, TRN.2019.10.30.01.C.

⁹²⁹ Transcript of Inspector Boris Buick, 30 October 2019, 8559, TRN.2019.10.30.01.C.

⁹³⁰ Transcript of Inspector Boris Buick, 30 October 2019, 8559-8560, TRN.2019.10.30.01.C.

⁹³¹ Exhibit RC0273 Ms Nicola Gobbo diary, 6 September 2004, 101, MIN.0001.0014.0002 @.0101; 9 September 2004, 41, MIN.0002.0002.0002 @.0041: Ms Gobbo recording in her diary at top of page 'Thomas summons ACC' and 3pm 'Thomas ACC'.

⁹³² Exhibit RC1885 Transcript of proceedings, (Australian Crime Commission, *Project Knowlton*, 6 September 2004), OPP.0002.0003.0844.

⁹³³ Exhibit RC0273 Ms Nicola Gobbo diary, 9 September 2004; 41, MIN.0002.0002.0002 @.0041; Exhibit RC0273 Ms Nicola Gobbo court book, 9 September 2009, 110, MINRC.0001.0014.0002 @.0110

during the examinations, as acknowledged by him during his evidence to the Commission.⁹³⁴

17 to 27 September 2004 – Supreme Court Mentions regarding Disclosure Issues

724. On 17, 23, and 27 September 2004, Ms Gobbo appeared on behalf of Mr Thomas in mention hearings before Justice Teague at the Supreme Court.⁹³⁵ These hearings involved disclosure applications by the defence.⁹³⁶
725. On 23 September Ms Gobbo appeared on behalf of Mr Thomas. Mr Peter Faris QC appeared for Mr Williams, and Mr Horgan represented the Crown. One of the matters of concern to Mr Faris, on behalf of Mr Williams was 'full disclosure' including of police notes, and the discussion would have reminded those present, including Ms Gobbo and Mr Bateson that the duty was a significant one, and owed to the court.⁹³⁷
726. Mr Bateson was cross-examined by Mr Faris at one point in relation to whether any other statements of Mr McGrath existed:⁹³⁸

MR FARIS: Any other statements made by McGrath, signed or unsigned?

MR BATESON: There is none relevant to these charges.

MR FARIS: None relevant or none full stop?

MR BATESON: None relevant to these charges.

MR FARIS: What about other statements that he's made, are you prepared to provide those or do you take some sort of privilege?

MR BATESON: I would take - be seeking public interest immunity to answer that question.

A note appears at bottom of one page which appears separate from notes of hearing which reads "Farouk + AV killed PK".

⁹³⁴ Later during the Orman committal, Ms Gobbo was concerned that a subpoena for this material be resisted as it contained numerous lies and contradictions to Mr Thomas' statements: Exhibit RC0281 ICR2958 (008), 12 March 2008, 94, VPL.2000.0003.0834.

⁹³⁵ Exhibit RC1568 Ms Nicola Gobbo Fee Book 1, 21 January 2005, 84, MIN.5000.7000.0001 @.0084; Exhibit RC0273 Ms Nicola Gobbo diary, 17 September 2004; 42, MIN.0002.0002.0002 @.0042; Exhibit RC0273 Ms Nicola Gobbo diary, 23 September 2004, 43 MIN.0002.0002.0002 @.0043; Exhibit RC0273 Ms Nicola Gobbo diary, 27 September 2004, MIN.0002.0002.0002 @.0044. (NB Court Book entries of 17 and 27 are undated)

⁹³⁶ Exhibit RC1886 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Justice Teague, 17 September 2004), RCMP1.0108.0002.0005; Exhibit RC0773 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Justice Teague, 23 September 2004), RCMP1.0108.0002.0006; Exhibit RC0773 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Justice Teague, 23 September 2004), RCMP1.0108.0002.0007.

⁹³⁷ Exhibit RC0773 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Justice Teague, 23 September 2004), 10-12, RCMP1.0108.0002.0006 @.0011-.0012.

⁹³⁸ Exhibit RC0773 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Teague J, 23 September 2004), 14, RCMP1.0108.0002.0006 @.0015.

727. Mr Faris also asked questions of Mr Bateson concerning documents relating to McGrath agreeing to give evidence for the Crown:⁹³⁹

MR BATESON: I have none in my possession and I don't believe there is any in existence.

...

MR FARIS: ... Presumably he didn't just out of the blue say, "I want to give evidence for the Crown" and that was it. There was some discussion about it, was there?

MR BATESON: Yes.

MR FARIS: And you say there was no documents; does that mean all the discussion and negotiation or whatever occurred about McGrath giving evidence and the benefits for him, whatever they might be, there is no documents relating to that?

MR BATESON: Correct.

MR FARIS: Are you able to tell us why?

MR BATESON: Why would there be?

728. When given the opportunity to cross-examine Mr Bateson, Ms Gobbo declined to do so.⁹⁴⁰

729. Ms Gobbo agreed that she had a 'huge conflict' as she could not reveal the fact that she had knowledge of the draft statements.⁹⁴¹ She said she could not do this 'for fear of the consequences.'⁹⁴²

730. **On the evidence, it is open to the Commissioner to find that Ms Gobbo could not properly fulfil her duties to Mr Thomas without disclosing confidential information concerning Mr McGrath, which would likewise have exposed her own role in the negotiations and the statement making process.**

731. **On the evidence, it is open to the Commissioner to find that Mr Bateson was aware of the above situation and would have been comfortable in the knowledge that he would not be cross-examined by Ms Gobbo. It is inconceivable that Mr Bateson would have considered that Mr Faris would not have wanted to know about those matters.**

⁹³⁹ Exhibit RC0773 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Teague J, 23 September 2004), 15-16, RCMP1.0108.0002.0006 @.0016-.0017.

⁹⁴⁰ Exhibit RC0773 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Teague J, 23 September 2004), 23, RCMP1.0108.0002.0006 @.0024.

⁹⁴¹ Transcript of Ms Nicola Gobbo, 13278, TRN.2020.02.06.01.P.

⁹⁴² Transcript of Ms Nicola Gobbo, 13278, TRN.2020.02.06.01.P.

7 & 14 December 2004 – Gobbo Appearances for Thomas

732. By application made to the Supreme Court, Messrs Williams, Andrews and Thomas sought an order staying the Director's presentment filed on 30 August. The argument was heard on 7 December and upheld on 14 December 2004. Ms Gobbo appeared on behalf of Mr Thomas in the successful application.
733. She pointed out in argument that the case against Mr Thomas relied upon Mr McGrath. She said:⁹⁴³

"The only evidence against Mr Thomas is the anticipated evidence of Mr McGrath, albeit, as vague and non-specific as Mr McGrath himself says in his statement. By that I mean where he refers to the fact of Mr Thomas allegedly having a conversation but then is unable to recall any details whatsoever in relation to that information which Mr Thomas has allegedly provided."

734. A committal proceeding commenced in the Magistrates' Court the following year.⁹⁴⁴

19 January 2005 – McGrath Plea

735. On 19 January 2005, Mr McGrath pleaded guilty to and was sentenced for the murder of Michael Marshall.⁹⁴⁵ Another barrister, not Ms Gobbo, appeared on his behalf.⁹⁴⁶ He received a sentence of 18 years' imprisonment, with a non-parole period of ten years.⁹⁴⁷ The sentence was substantially mitigated by the fact of his past co-operation and promises of future co-operation.⁹⁴⁸
736. As part of the plea resolution, Mr McGrath was not prosecuted for his role in the killings of Mark Moran, Jason Moran and Pasquale Barbaro.⁹⁴⁹

⁹⁴³ Exhibit RC1886 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Teague J, 7 December 2004), 48, RCMP1.0108.0002.0009 @.0049.

⁹⁴⁴ Exhibit RC0124 Extract of Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 7 and 14 December 2004, 51, OPP.0001.0004.0025 @.0075; Exhibit RC1568 Ms Nicola Gobbo fee book, 21 January 2005, 84, MIN.5000.7000.0001 @.0084; [REDACTED]; 151 A Crim R 42; Exhibit RC0273 Ms Nicola Gobbo diary, MIN.0002.0002.0002 @.0054; Exhibit RC0273 Ms Nicola Gobbo court book, MIN.0001.0014.0002 @.0167; Exhibit RC0273 Ms Nicola Gobbo diary, MIN.0002.0002.0002 @.0055.

⁹⁴⁵ *R v McGrath* [REDACTED].

⁹⁴⁶ *R v McGrath* [REDACTED]. Mr S Langslow appeared for the accused; Mr P Coghlan, DPP, with Mr Horgan appeared for the Crown.

⁹⁴⁷ *R v McGrath* [REDACTED], [1].

⁹⁴⁸ *R v McGrath* [REDACTED], [1]-[2], [10]-[13], and Appendix B of judgment.

⁹⁴⁹ Exhibit RC1886 Transcript of proceedings, *R v Carl Anthony Williams, Andrews and Thomas* (Supreme Court of Victoria, Teague J, 7 December 2004), 58, RCMP1.0108.0002.0009 @.0059.

Committal of Williams, Thomas and Andrews

February 2005 – Gobbo’s Memorandum to Lovitt about Thomas

737. On 16 February 2005, Ms Gobbo, accompanied by Mr Valos, conducted professional visits with Mr Thomas⁹⁵⁰ and Mr Williams.⁹⁵¹
738. On 18 February 2005, Ms Gobbo prepared a detailed memorandum addressed to Mr Colin Lovitt, who was briefed to appear at Mr Thomas’ upcoming committal hearing.⁹⁵² The final paragraph of that memorandum stated that Ms Gobbo had been briefed to appear in various mentions in relation to Mr Thomas’ stay application, but she viewed it as inappropriate to appear at the committal due to her involvement in acting for Mr McGrath up until the time he became a Crown witness. The memorandum indicated she would nevertheless maintain the brief.⁹⁵³
739. The memorandum stated that disclosure had been sought. It noted that there was very little material of utility available in the material obtained thus far. Additional material had been obtained through a subpoena issued by Mr Faris, who was representing Mr Williams, including investigator diary notes and day book entries.⁹⁵⁴ The memorandum also noted that under no circumstances would the client entertain any deal whatsoever.⁹⁵⁵
740. Ms Gobbo said that she would have maintained the brief so that she could assist her instructing solicitor with tasks such as obtaining instructions.⁹⁵⁶
741. Mr Lovitt said that Ms Gobbo had told him that she had acted for Mr Thomas at some time or another. He did not believe, however, that Ms Gobbo was acting for Mr Thomas at the time of the committal, because Mr Lovitt held that brief himself.⁹⁵⁷

1 March 2005 – Committal Proceedings of Messrs Williams, Andrews and Thomas

742. The contested committal in relation to the murders of Mr Jason Moran, Mr Barbaro and Mr Marshall was held between 1 March and 10 March 2005. Mr Andrews was represented by Mr Nick Papas, Mr Williams was represented by Mr Heliotis instructed by Solicitor 2, Mr Thomas was represented by Mr Lovitt, instructed by Mr Valos, and Mr Horgan and Mr

⁹⁵⁰ Exhibit RC1575 Corrections Victoria visitors log for Mr Thomas, 16 February 2005, 5, CNS.0007.0001.0263 @.0267.

⁹⁵¹ Exhibit RC1573 Corrections Victoria Archive Visit Enquiry for Mr Carl Williams, 16 February 2005, 1, CNS.0001.0003.1020.

⁹⁵² See Exhibit RC1163 Memorandum to Counsel from Valos Black and Associates to Colin Lovitt, 18 February 2005, 5, 10, MIN.5000.0002.4504 @.44508, .0513 [NB: The memorandum notes, inter alia, that “given her previous involvement in acting for McGrath up until the time that he became a Crown witness we do not view it as appropriate if she appears at the Committal although she maintains a brief in this matter.”] [Also says, at p 5: “Under no circumstances will Thomas entertain any deal whatsoever.”]

⁹⁵³ Exhibit RC1163 Memorandum to Counsel from Valos Black and Associates to Colin Lovitt, 18 February 2005, 10, MIN.5000.0002.4504 @.4513.

⁹⁵⁴ Exhibit RC1163 Memorandum to Counsel from Valos Black and Associates to Colin Lovitt, 18 February 2005, 4, MIN.5000.0002.4504 @.4507.

⁹⁵⁵ Exhibit RC1163 Memorandum to Counsel from Valos Black and Associates to Colin Lovitt, 18 February 2005, 5, MIN.5000.0002.4504 @.4508.

⁹⁵⁶ Transcript of Ms Nicola Gobbo, 13282, TRN.2020.02.06.01.P.

⁹⁵⁷ Exhibit RC0783, Statement of Mr Colin Lovitt, 14 November 2019, COM.0095.0001.0001 @.0003.

Tinney appeared on behalf of the Police. Mr Silbert appeared on behalf of the Chief Commissioner of Police.⁹⁵⁸

743. The transcript of the contested committal on 1 March 2005 indicates that Ms Gobbo appeared as junior counsel for Mr Thomas, however this appears to be an error.⁹⁵⁹ Mr Lovitt, Mr Thomas, Ms Gobbo and her memorandum all indicate she did not make any appearance at the committal. She considers that she 'may have stuck [her] head in at one stage.'⁹⁶⁰
744. Mr McGrath was cross-examined for five days during the committal. At no point during his cross-examination was it mentioned that Ms Gobbo had represented him.⁹⁶¹ Further, in cross examination of Mr McGrath, Mr Lovitt on behalf of Mr Thomas was unable to elicit evidence which came close to establishing the true facts concerning the sequence of event which culminated in the making of the two statements relevant to the committal proceeding.⁹⁶² It is apparent from an examination of the committal transcript that Mr Lovitt was hampered by the fact that he was provided with incomplete and redacted police notes.
745. It is submitted that knowledge of the changes that had been made to the statement and how those changes had come about would have given counsel for the accused an avenue upon which to challenge Mr McGrath's credibility, which was not available to them.
746. There was a version of events given by Mr McGrath, after being told that he must tell the truth, which his lawyer and the police thought was untrue. Ms Gobbo expressed scepticism about the statement with which Mr Bateson agreed.⁹⁶³
747. In circumstances in which Mr McGrath was being given an indemnity for the murders of Mr Moran and Mr Barbaro, and the significant benefit of a police officer willing to give evidence on his plea for the murder of Mr Marshall, any suggestion that he improved the statement to assist the prosecution case against Carl Williams would be closely examined at committal and trial. Justice Gillard commented in argument later in the year when application was made to stay the direct presentment, 'Mr McGrath's statement is the link to Mr Williams'.⁹⁶⁴
748. The provision of the earlier version of the statement may have enabled Mr Williams' counsel to challenge the Crown case that he had orchestrated a murder, not only by challenging the credibility of the witness, but by impugning the process by which the statement came to be made. This

⁹⁵⁸ Exhibit RC1392 Transcript of proceedings, *The Police v Carl Williams, Andrews, Thomas*, (Magistrates' Court of Victoria, 1 March 2005), VPL.0100.0025.2695.

⁹⁵⁹ Exhibit RC1392 Transcript of proceedings, *The Police v Carl Williams, Andrews, Thomas*, (Magistrates' Court of Victoria, 1 March 2005), VPL.0100.0025.2695; Exhibit RC1163 Memorandum to Counsel from Valos Black and Associates to Colin Lovitt, 18 February 2005, MIN.5000.0002.4504 @.4508; Ms Nicola Gobbo Memorandum to Mr Collin Lovitt about his appearance, 18 February 2005, MIN.5000.0002.4504.

⁹⁶⁰ Transcript of Ms Nicola Gobbo, 13281, TRN.2020.02.06.01.P.

⁹⁶¹ Transcript of Commander Stuart Bateson, 2 July 2019, 3425, TRN.2019.07.02.01.C.

⁹⁶² Transcript of Committal proceedings, *R v Williams*, 526-528, OPP.0040.0002.0001 @.526-528.

⁹⁶³ Transcript of Commander Stuart Bateson, 19 November 2019, 9553, TRN.2019.11.19.01.C.

⁹⁶⁴ *R v Williams, Andrews and Thomas*, Transcript 7 December 2004, 14; RCMP.0108.0002.0009.

issue was not lost on Ms Gobbo, as can be seen from comments that she regularly made to her handlers, and which are set out elsewhere.

749. Knowledge of those changes would have been most relevant to counsel for Messrs Williams, Andrews and Thomas who were trying to test the strength of evidence against their clients, who were facing charges carrying life imprisonment.
750. The matters about which Ms Gobbo expressed scepticism, which scepticism was apparently shared with the Purana leadership, were significant matters concerning the witness's credibility; a proposition with which Mr Bateson agreed.⁹⁶⁵
751. Further, in any prosecution of Carl Williams for the murder of Michael Marshall, in which it was to be asserted that Carl Williams had engaged Mr McGrath and Mr Andrews to carry out an execution murder, any suggestion on the part of Mr McGrath, who was expected to be the main witness, that Mr Williams may not have intended a killing could have been detrimental to the prosecution case.
752. It is instructive to note Mr Lovitt's examination of Mr Bateson in the committal, where counsel for each accused were apparently interested to understand the statement taking process that had occurred in relation to Mr McGrath:⁹⁶⁶

MR LOVITT: Can you not see that if you take a statement - say, I'm your big white hope, all right, and you sit down with me for hours and hours, days and days, and you gradually get out of me a 20 page statement. Then, meanwhile, you're running off and seeing if the various small print information I give you, such as where I was, are there mobile records that confirm that I was there at the time, are there E-tag records that confirm that I was driving in that area or by that route, is there anybody who saw me or my car or something in the area that I say I was. So you're continuously trying to obtain confirmation, aren't you? All police would do that?

MR BATESON: Well, that didn't take place in all the statement. There's some reference in my notes to doing that in the breaks in the statement, but certainly from my point of view the integrity of the evidence is when the witness sits in the box and gives that to the court.

MR LOVITT: Yes, but you see, the witness sits in the box with a statement that says at the bottom, he makes that statement - effectively, let's say it's got a perjury clause at the end of this. This witness sits in the box also with an indemnity that

⁹⁶⁵ Transcript of Commander Stuart Bateson, 2 July 2019, 3387, TRN.2019.07.02.01.C.

⁹⁶⁶ Transcript of Committal proceedings, *R v Carl Williams, Andrews, Thomas*, 7 March 2005, 526-528, OPP.0040.0002.0001.

effectively means that if he doesn't swear up to what's in his statement, he may well be brought before a court and re-sentenced and given twice as much because that's what the judge said was the discount in the murder plea, so there's a lot of pressure on any human being, let alone this one and his personality, to swear up to whatever's in his statement. The problem is how it gets in the statement; do you understand?

MR BATESON: I understand the proposition you're putting, yes.

MR LOVITT: Can you not see that by removing from the defence any skerrick of information about what he told you in the various steps leading up to the signing of that statement on 13 July, not just the defence, but someone sitting in the audience saying, "Well, OK, if they're guilty, let's convict them, but only on fairly obtained evidence, beyond reasonable doubt"? Can you not see that some people might think that that's likely to create an unfairness?

MR BATESON: Well, I don't see it.

MR LOVITT: The evidence in that statement was obtained fairly, and it was done with - - - You say that, of course you do?

MR BATESON: Absolutely.

MR LOVITT: But how do we know?

MR BATESON: I'm sitting here - - -

MR LOVITT: Because you say so?

MR BATESON: Having sworn on the Bible that that's the case.

MR LOVITT: Well then, you may as well, "Get rid of the barristers because a policeman swears on the Bible, therefore it must be true." Is that what you're saying?

MR BATESON: Great idea.

MR LOVITT: I'm sure that when policemen are charged with offences themselves, they wouldn't agree with you.

753. Shortly following this, Mr Lovitt examined Mr Bateson, taking him through his notes of events which had been disclosed to the defence. Mr Lovitt asked questions as to why Mr McGrath had not signed his statements on 9 July 2004 and the procedure of having Mr McGrath's legal representative vet his statements:⁹⁶⁷

⁹⁶⁷ Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 831, OPP.0041.0001.0002 @.0831.

MR LOVITT: *Why didn't he sign it then and there?*

MR BATESON: *Because he wanted his legal representative to look at it before signing.*

MR LOVITT: *It really was a negotiated statement wasn't it?*

MR BATESON: *Well - I don't know, I don't know if that's a fair summation, to have a wish that you want your legal rep to see it, before signing it, I don't know that that is fair, maybe it is, I don't know that that necessarily makes it a negotiated statement.*

MR LOVITT: *He's a man charged with murder, who's admitting to his involvement and he makes a statement to the police, he doesn't sign it but he wants his solicitors to look at it before he will sign it?*

MR BATESON: *Yes.*

MR LOVITT: *That's a very unusual procedure isn't it, you're not talking about just any old eyewitness who's a bit worried until his lawyer's vetted what he's told the police, you're talking about a man charged with murder, who's admitting to being involved in the murder, but wanting the fine print to be perused and approved by his solicitor?*

MR BATESON: *I - I think it's a fairly - a very fair thing to do, I would have thought, I mean perhaps I would want to do just that if I was in his position.*

MR LOVITT: *No, but you see the police normally don't let you, I've never seen - I've only been around the Bar for 35 years and I've never seen it before - with anyone?*

MR BATESON: *I - I certainly think it would be a very fair thing to do and I couldn't see any reason why not to comply with his wishes.*

MR LOVITT: *Look, if he had have asked for a cream bun you would have given it to him at that stage, wouldn't you?*

MR BATESON: *If I had a cream bun in the room, probably, yes.*

MR LOVITT: *A good honest answer Mr Bateson.*

754. He asked Mr Bateson about his attendance on 9 July:⁹⁶⁸

MR LOVITT: *Yes?*

MR BATESON: *The 9th of July.*

MR LOVITT: *The 9?*

⁹⁶⁸ Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 847, OPP.0041.0001.0002 @.0847.

MR BATESON: Yes. It is 10:55

MR LOVITT: The notes you've got there, is that at the start of the day, that is the one that I have already referred you to, a portion to reference to the Marshall statement?

MR BATESON: Yes.

MR LOVITT: At 11.25: "McGrath entered Government functions. Marshall" and then you have notes that I have read concerning Marshall. Then there is some deletion?

MR BATESON: M'mm.

MR LOVITT: And then Moran Barbaro's statement and then there is some further deletion?

MR BATESON: Yes.

MR LOVITT: I am a little bit hamstrung here, Your Honour, but I would like to ask the witness what it was about the note that has been blacked out that he felt shouldn't be disclosed

HIS HONOUR: I don't think you can. Whilst I can understand your curiosity, curiosity, obviously, your frustration, perhaps. Having dealt with in the way I have, for the reasons that I did indeed give, I don't believe ...

755. Mr Lovitt proceeded from Mr Bateson's diary and day book notes on 9 July 2004, which had been a Friday, (being ignorant of what had occurred over the weekend) he moved to the next entry disclosed to the defence, Monday 12 July 2004:⁹⁶⁹

MR LOVITT: We got to 9 July?

MR BATESON: We've done 9 July.

MR LOVITT: Yes?

MR BATESON: 12 July.

MR LOVITT: What happened then?

MR BATESON: On 12 July we went with - just let me look over this page here. Went to the - to the prison.

MR LOVITT: Sorry, I thought it was in the right order, so I was confused?

MR BATESON: OK.

MR LOVITT: 12 July, yes?

MR BATESON: Yes, we gave him a look at the statements. We then went to Werribee to print them off and then

⁹⁶⁹ Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 848-9, OPP.0041.0001.0002 @.0848-.0849.

got him to read them and once again he wanted to talk to his lawyer before he signed them and that's why we came back on the 13th for a videorecorded read back.

MR LOVITT: He wanted to have another chat to his lawyer?

MR BATESON: Yes.

MR LOVITT: The statements were in what form? Were they in hard copy or just on a computer, say around 9 or 12 July?

MR BATESON: I believe they were in hard copy by that stage.

MR LOVITT: But not signed?

MR BATESON: Not signed, no.

MR LOVITT: What happened to the unsigned statements that existed prior to the signing on 13 July?

MR BATESON: They were signed.

MR LOVITT: The same documents?

MR BATESON: Yes.

MR LOVITT: How do you know?

MR BATESON: How do you know or how do I know?

MR LOVITT: All right, how do you know?

MR BATESON: Because I have a memory of it.

MR LOVITT: And of course, you know, we've got to accept that what you're saying is true, right?

MR BATESON: I hope you do, Mr Lovitt.

756. What Mr Lovitt did not know was that whilst Mr Bateson's diary entry indicated he was on rest days on the weekend of 10 and 11 July 2004:⁹⁷⁰

See 10 See 10	R.D (2) W.F. 26.6.2004
See 11	R.D (1) W.F. 3.7.2004.

757. Mr Bateson also had two pages of day book notes covering the period from the afternoon of Friday, 9 July 2004 to Sunday, 11 July 2004. Whilst police issue diary books have numbered pages, day books did not. The absence of these pages would not have been apparent to Mr Lovitt. These pages indicated the true nature of Ms Gobbo's involvement with Mr McGrath, she had not only read the statements, but she had expressed doubt about aspects of them, Mr Bateson had facilitated weekend access for her to visit

⁹⁷⁰ Exhibit RC0272 Commander Stuart Bateson diary, 10, 11 July 2004, 96, VPL.0005.0058.0706_S20190612 @.0801.

Mr McGrath, and that his statements had been changed following her intervention.⁹⁷¹

⁹⁷¹ Exhibit RC0272 Commander Stuart Bateson day book, 9-11 July 2004, 111, VPL.0005.0058.0001 @.0111.

Homicide Squad

Day: Friday Date: 9th of July 2004

Time	Notes
1600	Roy Geoff Morgan advised arrest, updated re [REDACTED]
	Nicola Gobbo [REDACTED]
1620	• Sunday morning: • S/I Nicola Gobbo; recording 7 10:30 and 12:00 pm. [REDACTED] working has to read statement prior to signing. Able to read New Sat. arvo on Sun morning Roger Interwood custody centre Custody Centre [REDACTED] Chiro [12:30pm 2:00 pm at your ask. [REDACTED]

Stuart Bateson
Detective Sergeant 26242

Homicide Squad

Day: Saturday Date: 10th of July 2004

Time	Notes
1400	Mark Hart attends office at Nicola Gobbo allowed same to read statements
≈1530	Rang by Nicola Gobbo. asked if I could speed up process of the new visitor clearance. Also expressed scepticism of - no payment - not knowing it was murder. will visit [redacted] in the am
1540	Visit arranged with prison staff. advised Gobbo.
<u>Sunday 11th of July</u>	
≈1300	S/T Nicola Gobbo stated [redacted] was worried about sentence and severity of assault will be more truthful

Stuart Bateson
Detective Sergeant 26242

758. Mr Bateson was directly asked by Mr Lovitt, if there were any draft statements in existence, including on a computer, of any statement that Mr McGrath made and which was altered in some way prior to signing on 13 July 2004. Mr Bateson answered, 'the only draft is, or the only difference that we have recorded is the addresses that we have deleted out of the statements'.⁹⁷²

⁹⁷² Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 824, 849, OPP.0041.0001.0002 @.0824, .0849.

759. Further, it was Mr Bateson's practice, and it seems the practice of other investigators at Purana not to retain drafts of a statements, even when those drafts were considered to be complete.

760. Mr Bateson was asked questions about his process. In evidence when he first appeared before the Commission on 2 July 2019, Mr Bateson said that only one version of the statement was ever kept.⁹⁷³ Mr Bateson said:⁹⁷⁴

MR WINNEKE: And the minor changes to beliefs were what?

MR BATESON: I think, as you can see in the notes that Ms Gobbo makes, he thought it was debt collection but then realised it wasn't, and I think that's about as far as we got with that. That statement would be available. I haven't got it with me but we could easily get that statement.

MR WINNEKE: So the draft - the statement that Ms Gobbo was provided with and saw, you say, is available?

MR BATESON: No, the final version is available.

MR WINNEKE: So the draft, in which there was a minor change in the introductory paragraphs concerning the belief, you say that's not available, the draft before the change?

MR BATESON: I'm saying there's only one version of the statement and that statement contains his signature.

761. Mr Bateson was questioned about his practice when he returned to give further evidence in November:⁹⁷⁵

MR BATESON: Can I say that I do accept that we take the statement back to her, then he makes statements, and then we go back again and he makes a further slight change to his belief.

MR WINNEKE: You say a slight change to his belief?

MR BATESON: Yeah.

MR WINNEKE: It's a change to what he believed was going to take place, correct?

MR BATESON: No, I think at that point it's just like, yeah, I think, I suppose I could have thought it was always going to be a murder. We'd have to look to the Marshall statement.

MR WINNEKE: What we'd have to look to I suggest, Mr Bateson, is the draft copy of the statement which has been destroyed?

⁹⁷³ Transcript of Commander Stuart Bateson, 2 July 2019, 3386, TRN.2019.07.02.01.C.

⁹⁷⁴ Transcript of Commander Stuart Bateson, 2 July 2019, 3386, TRN.2019.07.02.01.C.

⁹⁷⁵ Transcript of Commander Stuart Bateson, 20 November 2019, 9617, TRN.2019.11.20.01.C.

MR BATESON: *Well yeah, you could.*

MR WINNEKE: *But we can't, can we, because it's been destroyed?*

MR BATESON: *Yeah.*

MR WINNEKE: *Correct?*

MR BATESON: *Correct.*

MR WINNEKE: *Did you have a practice of taking hard copies of statements and then destroying those hard copies of statements when you made subsequent changes to the contents of the statement? Was that a practice?*

MR BATESON: *I think I outlined as best as I could my practice in my supplementary statement and - - -*

MR WINNEKE: *Was that a practice, to print off hard copies of statements and then destroy them if they were then changed?*

MR BATESON: *Yeah, yep.*

MR WINNEKE: *That's the practice?*

MR BATESON: *That was my practice, yeah.*

MR WINNEKE: *All right?*

MR BATESON: *I always believed the final product was the only product.*

762. The evidence on 20 November concerning the destruction of the draft statement resulted in several media articles in print and television news. The following day a draft of the Marshall statement with meta data suggesting that it was created on 9 July 2004 was produced to the Commission.⁹⁷⁶ It is likely that this was the draft shown to Ms Gobbo on 10 July 2004.
763. The differences between the two versions of the statement are highlighted in exhibit RC0785,⁹⁷⁷ and the manner in which the draft, (which Mr McGrath had been happy with on 9 July 2004, subject to the approval of Ms Gobbo) was altered, can be seen. For example:
- 763.1. the following sentence in paragraph 38 of the 9 July statement had been removed from the signed version of 13 July: *'At this point (the day before the murder) I still thought that the job we were going to do was to standover MARSHALL for the debt and possibly shoot him as a warning'*
- 763.2. in paragraph 51 in the 9 July 2004 draft, Mr McGrath had a 'bit of an inkling' that Marshall would be murdered. In the signed statement his state of mind had strengthened to a become a 'belief'

⁹⁷⁶ Transcript of Commander Stuart Bateson, 21 November 2019, 9726, 9796, TRN.2019.11.21.01.C; 22 November 2019, 9811, TRN.2019.11.22.01.C.

⁹⁷⁷ Exhibit RC0785 Statement of Mr McGrath, 13 July 2004, COM.0103.0001.0002_HA.

- 763.3. in paragraph 52 of the signed statement, the words ‘I was sure at this point that Marshall was going to be murdered’ had been added
- 763.4. in paragraph 104 of the signed statement the following sentence, which was not in the 9 July draft had been added: ‘*Not that I needed confirmation by this stage, but this confirmed that the job had gone according to plan and that there was never going to be a debt collection. It was my belief that Andrews had done exactly as Carl had asked.*
764. Whilst it is clear that a PII claim had been made in respect of Ms Gobbo’s name in relation to other entries in Mr Bateson’s diary and day book (indeed Mr Lovitt commented on the oddity of a lawyer’s name having being redacted during his examination of Mr Bateson⁹⁷⁸) the evidence suggests that the above two pages were not provided to the Chief Magistrate to assist him in making such a determination:
- Mr Bateson’s day book was paginated for the purposes of disclosure prior to the committal, and these two pages were missing in the sequence,⁹⁷⁹ indicating that a decision had been made prior to the committal not to provide those pages
 - had the Chief Magistrate been provided with those pages of Mr Bateson’s day book, he would have been cognisant of a change that had occurred to Mr McGrath’s statement over the course of the weekend, and would not have sat idly by when Mr Bateson gave evidence indicating that the unsigned statements which had existed prior to the weekend were signed,⁹⁸⁰ or when Mr Bateson said that no drafts of such statements existed⁹⁸¹
 - no draft statements, which must have existed, were disclosed or provided to the court, prosecution or defence⁹⁸²
 - Mr Gavin Silbert QC of counsel appeared on behalf of the Chief Commissioner. Mr Silbert’s statement to the Commission noted that although he has no independent memory of the matter, having read relevant extracts of material he is satisfied he was not provided with Mr Bateson’s day book notes of 10 and 11 July 2004, nor any draft statement by Mr McGrath, both of which he considers he should have been provided to properly consider the propriety of the claim for PII.⁹⁸³

⁹⁷⁸ Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 844-5, OPP.0041.0001.0002 @.0844-.0845.

⁹⁷⁹ During the committal hearing, Mr Lovitt tendered all day book and diary entries which had been disclosed, and as such his material appears in the depositions. Prior to the committal, Mr Bateson had provided his day book entries numbered sequentially in reverse date order, page 1 being 16 August 2004 through to page 275 on 21 June 2003. The day book entries for afternoon of 9 July and the weekend of 10 and 11 July 2004 are missing between pages 7 and 8. Additional unpaginated pages of Mr Bateson’s day books are contained in the depositions, however these related to dates following 16 August 2004; Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 676-967, OPP.0041.0001.0002 @.0676-967.

⁹⁸⁰ Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 848-9, OPP.0041.0001.0002 @.0848-.0849.

⁹⁸¹ Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 824, OPP.0041.0001.0002 @.0824.

⁹⁸² Exhibit RC1875 Transcript of Commander Stuart Bateson Examination, *R v Carl Williams, Thomas and Andrews*, 9 March 2003, 824, OPP.0041.0001.0002 @.0824.

⁹⁸³ Exhibit RC1508, Statement of Mr Gavin Silbert, 1 April 2020, 2 [10] – [14], COM.0109.0001.0001 @.0002.

765. **On the evidence, it is open to the Commissioner to find that:**

765.1. **had Ms Gobbo's role in acting for Mr McGrath been made transparent at that time, it is unlikely that she could have continued to act for Mr Thomas**

765.2. **it is likely that Ms Gobbo's other clients such as Mr Carl Williams (whose committal preparation she was involved in – see below) and Mr Tony Mokbel would no longer have regarded her as a lawyer who was part of their 'crew'. It is likely that they would have ceased engaging her.**

766. Mr Bateson said that Ms Gobbo's name was protected because of concern that she could be harmed if it was known that she had acted for Mr McGrath:

MR WINNEKE: But as far as you're concerned, the fact that she's appearing at (court out of Melbourne) on a matter completely unrelated to Williams is something that you would say has got to be protected from public view?

MR BATESON: I'm not sure I can make this much clearer, Mr Winneke. What I believed is that Mr Williams and his crew would find it objectionable that Nicola Gobbo or Ms Gobbo acted and facilitated the instructions of Mr McGrath, because they believed her to be part of their crew, their criminal network. Even though she acted in the best interests of her client, that was what they would think.

MR WINNEKE: Was this the subject of an affidavit or a confidential affidavit to any court?

MR BATESON: I don't recall. I suspect in the Magistrates' Court it was me giving evidence.

MR WINNEKE: Do you recall in what proceeding this evidence was given?

MR BATESON: It was in the committal proceeding and I believe the Chief Magistrate was the person that ...

767. Given the suspicions that members of Purana, including Mr Ryan, had of the inappropriately close (if not criminal) relationship that Ms Gobbo had with Messrs Williams and Mokbel, it may be that the concerns they held were justifiable, and no doubt, that is what Mr Bateson conveyed to the Magistrate.

768. If Ms Gobbo needed that protection however, it was because the nature of her relationship with 'Mr Williams and his crew' had so far departed from that

which should be expected of an independent legal practitioner, as to make her ongoing involvement with Mr McGrath as his legal representative untenable.

769. **On the evidence, it is open to the Commissioner to find that the fact that Mr Bateson considered that Ms Gobbo's role would need to be kept secret for fear of her being harmed, was sufficient reason alone, for Mr Bateson, and any superior officer who was aware, to take steps to ensure she did not continue to represent Mr McGrath, or remain in any way involved with the investigation of these murders. If there was genuine concern that Ms Gobbo would be harmed if Messrs Williams, Thomas and Mokbel found out about her involvement, then the simplest, safest and most responsible course to take was to counsel Ms Gobbo to have no further involvement, and if she persisted, then to raise their concerns with the OPP.**

770. It was at that point in time that the rot set in, allowing for the calamitous events which have followed. Had those day book entries been disclosed, the cover up that occurred in relation to Ms Gobbo's representation of Mr McGrath during his negotiations would likely not have occurred. Her conflict would have been exposed, and it simply would not have been possible for her to act for those against whom Mr McGrath would testify.

771. This conflict perpetuated the future coverups. Ms Gobbo spoke about it in her first meeting with the SDU. A pattern was established. The police would not seek the court's imprimatur in relation to the non-disclosure of Ms Gobbo's role, they would simply not disclose it. Beyond that, based upon lessons learned during this period where Ms Gobbo's name had been used by Mr Bateson's in his notes, care would be taken at the time of note taking to protect Ms Gobbo's role.

772. **On the evidence, it is open to the Commissioner to find that if Ms Gobbo's involvement in the representation of Messrs McGrath, Thomas or Orman (or in Operation Posse of Mokbel, Cooper, Bickley and others) had not been to Victoria Police's advantage, Victoria Police would have taken steps to prevent it from occurring.**

773. On 12 July the following year, Ms Gobbo was recorded in discussion with her SDU handlers Messrs Peter Smith and Anderson.⁹⁸⁴ She pointed out the means by which she could remain involved in proceedings which posed a risk because of the potential for police notes to expose her – 'I have to worry about the police notes being subpoenaed and cross-examined'. Ms Gobbo indicated that if she was involved, she could draft the subpoenas and summarise police diary notes as she had done with Stuart Bateson's notes

⁹⁸⁴ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Peter Smith, 12 July 2006, 261, VPL.0005.0111.0183 @.0443; Exhibit RC0282 Audio of meeting between Nicola Gobbo, Anderson and Peter Smith, 12 July 2006.

in relation to his dealings with McGrath for Mr Heliotis who was representing Carl Williams.

774. Ms Gobbo apparently did just that and charged Mr Williams \$1,650 for preparing 'summaries and material' in preparation for the committal proceeding. Ms Gobbo had been briefed by instructing solicitor, Solicitor 2 in that matter.⁹⁸⁵ Solicitor 2 was also representing Mr Andrews at the time.

After the Committal

23 March 2005 – Gobbo Contacts Bateson to Thank Him

775. On 23 March 2005, Ms Gobbo contacted Mr Bateson by telephone to thank him for ensuring that her name was not mentioned during the committal proceeding.⁹⁸⁶
776. Ms Gobbo referred to the fact that her identity had been protected during the committal in her conversation with SDU members on 16 September 2005.⁹⁸⁷ She was concerned that, although she had been protected in the first part of the subpoena argument in the Magistrates' Court, a judge could rule differently than the Magistrate.⁹⁸⁸ If that happened, Ms Gobbo said she was 'fucked'.⁹⁸⁹

19 to 23 May 2005 – Gobbo Starts Informing to Bateson

777. On 19 May 2005, Ms Gobbo contacted Mr Bateson and said that she would like to speak to him about a confidential matter. An arrangement was made to meet the following afternoon. By way of parting comment, in a pointed reference to Solicitor 2, she said 'it's hard to get paid by someone who doesn't have a trust account.' Mr Bateson reported this comment to Mr Ryan.⁹⁹⁰
778. Ms Gobbo left a message the following day to say that she could not make the meeting, and an agreement was made to meet the following day, which meeting she again failed to make.
779. On 22 May 2005, Ms Gobbo again rang Mr Bateson and apologised for failing to meet the day before. They spoke about the committal in relation to the murder of Mark Moran was listed for 24-25 May 2005.⁹⁹¹ She told Mr

⁹⁸⁵ Exhibit RC1568 Ms Nicola Gobbo fee book, 4 March 2005, 86, MIN.5000.7000.0001 @.0086.

⁹⁸⁶ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 11-12 [69], VPL.0014.0027.0001_R1 @.0011-.0012; RC0252 Purana Chronology prepared by Commander Stuart Bateson, 23 March 2005, 17, VPL.0015.0001.0409 @.0426.

⁹⁸⁷ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, 16 September 2005, 20-21, VPL.0005.0051.0002 @.0021-.0022.

⁹⁸⁸ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, 16 September 2005, 20-21, VPL.0005.0051.0002 @.0021-.0022.

⁹⁸⁹ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, 16 September 2005, 20-21, VPL.0005.0051.0002 @.0021-.0022.

⁹⁹⁰ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 19 May 2005, 19, VPL.0015.0001.0409 @.0427; RC0272 Commander Stuart Bateson diary, 19 May 2005, 17, VPL.0005.0058.0233 @.0249; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, VPL.0014.0027.0001_R1.

⁹⁹¹ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 22 May 2005, 20, VPL.0015.0001.0409 @.0428; RC0272 Commander Stuart Bateson diary, 22 May 2005, 19, VPL.0005.0058.0233 @.0251.

Bateson that she was concerned about Mr Hatt being cross-examined about the statement making process in relation to the Mark Moran statement.⁹⁹²

780. Mr Hatt was involved in the management of Mr McGrath while he was giving evidence in that committal.⁹⁹³ Mr McGrath had provided a statement that implicated Mr Williams in the murder of Mark Moran.⁹⁹⁴ As referred to previously, the process of taking the statement from Mr McGrath about the murder of Mark Moran had commenced on 30 June 2004, when Ms Gobbo was still acting, however the statement was not completed until after she had started to act for Mr Thomas and Mr Langslow was acting for Mr McGrath.⁹⁹⁵ Further, on 10 July 2004, Mr Hatt had attended Ms Gobbo's chambers for her to read Mr McGrath's statements, following which changes had been made to their content.
781. Mr Bateson told her that question had been ruled on by the Chief Magistrate.⁹⁹⁶
782. Further, as hinted at when they spoke on 19 May, Ms Gobbo said that she also had information regarding Solicitor 2 that she wanted to pass on. Mr Bateson undertook to contact her the following day.
783. On 23 May 2005, Mr Bateson met with Ms Gobbo and she provided him with information for the first time. Mr Bateson thereafter met and received information from Ms Gobbo on a number of occasions through to her registration by the SDU in September 2005. The information being provided by Ms Gobbo bore upon illegal activities including money laundering, and largely related to Solicitor 2, Mr Mokbel and Carl and George Williams, each of whom she was acting for during that period. These matters are dealt with in a separate Chapter.

30 June 2005 – Andrews Indicates that He will Plead Guilty

784. On 30 June 2005, a mention was held at the Supreme Court before Justice King. The mention related to different prosecutions, including the Marshall, Jason Moran and Barbaro murders.⁹⁹⁷ Among the defendants were Mr Williams, Mr Thomas and Mr Andrews.⁹⁹⁸ Ms Gobbo appeared on Mr

⁹⁹² RC0252 Purana Chronology prepared by Commander Stuart Bateson, 22 May 2005, 20, VPL.0015.0001.0409 @.0428; RC0272 Commander Stuart Bateson diary, 22 May 2005, 19, VPL.0005.0058.0233 @.0251; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 11-12 [69] VPL.0014.0027.0001_R1 @.0011-.0012.

⁹⁹³ Exhibit RC0263 Acting Inspector Mark Hatt diary, 22-24 May 2005, 55, VPL.0005.0114.0001_R1S @.0054;

RC0252 Purana Chronology prepared by Commander Stuart Bateson, 22 May 2005, 20, VPL.0015.0001.0409 @.0428.

⁹⁹⁴ Transcript of Commander Stuart Bateson, 2 July 2019, 3433, TRN.2019.07.02.01.C.

⁹⁹⁵ Transcript of Commander Stuart Bateson, 20 November 2019, 9573, TRN.2019.11.20.01.C.

⁹⁹⁶ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 22 May 2005, 20, VPL.0015.0001.0409 @.0428; RC0272 Commander Stuart Bateson diary, 22 May 2005, 19, VPL.0005.0058.0233 @.0251; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 11-12 [69], VPL.0014.0027.0001_R1 @.0011-.0012.

⁹⁹⁷ Exhibit RC0269c Statement of Commander Stuart Bateson, 17 November 2019, 6 [17], VPL.0014.0027.0020 @.0025.

⁹⁹⁸ Exhibit RC0269c Statement of Commander Stuart Bateson, 17 November 2019, 6 [18], VPL.0014.0027.0020 @.0025.

Thomas' behalf.⁹⁹⁹ Mr Heliotis appeared for Mr Williams and Mr Papas appeared for Mr Andrews.¹⁰⁰⁰ Mr Horgan appeared on behalf of the Crown.

785. Mr Andrews' counsel indicated that Mr Andrews intended to plead guilty to the Marshall murder.¹⁰⁰¹ Both Mr Papas and Mr Horgan said it was unlikely that Mr Andrews would become a Crown witness.
786. Mr Bateson recorded in his diary that he had discussions with Solicitor 2 and Ms Gobbo regarding the service of any subpoenas.¹⁰⁰²

1 September 2005 – Gobbo Concerned about Disclosure

787. On 1 September 2005, Mr Bateson attended a Supreme Court mention in prelude to the trial of Mr Williams for the murder of Marshall, which was commencing later in the month. An argument was set down for 9 September concerning a subpoena which had been issued by Solicitor 2 on behalf of Mr Williams. Later that night, after Mr Bateson had left work, Ms Gobbo called him to say that she was concerned about comments she attributed to Solicitor 2 that she would be receiving unedited notes. Mr Bateson reassured Ms Gobbo that this would be resisted. She then spoke of a 'run in with the drug squad which ended in her crying.' Mr Bateson noted that she obviously wanted to push that she was not and would not be involved in any criminal activity. Mr Bateson said that he allowed her to vent, and then informed Mr Ryan of the call.¹⁰⁰³

8 September 2005 – Gobbo Appears for Thomas in His Bail Application

788. On 8 September 2005, Ms Gobbo appeared for Mr Thomas in a Supreme Court bail application before Justice King.¹⁰⁰⁴ Mr Tinney appeared for the Crown.
789. Mr Bateson had prepared an affidavit for the purposes of opposing that application and was present in court.¹⁰⁰⁵ In the usual course, he might have expected to be cross-examined, by the applicant's counsel.
790. Ms Gobbo made submissions as to there being a reasonable prospect of acquittal of Mr Thomas.¹⁰⁰⁶ Essentially that was because the case against Mr Thomas relied only on the evidence of Mr McGrath.

⁹⁹⁹ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 30 June 2005, 55, OPP.0001.0004.0025 @.0079; Exhibit RC0273 Ms Nicola Gobbo court book, 30 June 2005, 22, MIN.0001.0011.0003 @.0022; Exhibit RC1176 Statement of Mr Thomas, 6 February 2020, 2-3, RCMP.0131.0001.0001 @.0002-.0003.

¹⁰⁰⁰ Exhibit RC1882 Transcript of Mention Hearing, *R v Williams, Andrews, Thomas, Sonnett, Hildenbrandt*, 30 June 2005, 1, VPL.6024.0200.3066.

¹⁰⁰¹ Exhibit RC0269c Statement of Commander Stuart Bateson, 17 November 2019, 6 [18], VPL.0014.0027.0020 @.0025.

¹⁰⁰² RC0272 Commander Stuart Bateson diary, 30 June 2005, 34, VPL.0005.0058.0233 @.0266.

¹⁰⁰³ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 1 September 2005, 23, VPL.0015.0001.0409 @.0431; Exhibit RC0272 Commander Stuart Bateson diary, 1 September 2005, 51, VPL.0005.0058.0233 @.0283.

¹⁰⁰⁴ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 8 September 2005, 23-24, VPL.0015.0001.0409 @.0431-.0432.

¹⁰⁰⁵ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 8 September 2005, 23-24, VPL.0015.0001.0409 @.0431-.0432; Exhibit RC0272 Commander Stuart Bateson diary, 8 September 2005, 53-54, VPL.0005.0058.0233 @.0285-.0286.

¹⁰⁰⁶ Transcript of Commander Stuart Bateson, 20 November 2019, 9655, TRN.2019.11.20.01.C.

791. The informant Mr Bateson was not called for cross-examination on this issue.
792. Ms Gobbo has also admitted that she did not fully inform Mr Thomas about the weaknesses in the case against him that were within her knowledge.¹⁰⁰⁷
793. Mr Bateson said that he would have been 'shocked' if Ms Gobbo cross-examined with a view to revealing how Mr McGrath's statement was prepared, given the steps that had been taken by Victoria Police to protect her safety.¹⁰⁰⁸
794. It is clear that Ms Gobbo was hopelessly conflicted. She was in possession of information that would strengthen Mr Thomas' case for bail to be granted but could not use this information.
795. Mr Bateson said that he did not seek legal advice regarding whether Ms Gobbo was in a position of conflict in appearing at the bail application.¹⁰⁰⁹
796. The bail application was refused.¹⁰¹⁰

9 September 2005 – Further Mention in Williams Matter

797. On 9 September 2005, Mr Bateson attended a further mention in relation to the Williams matter at the Supreme Court before Justice King, partly in relation to the subpoena argument.¹⁰¹¹
798. Mr Horgan and Mr Tinney appeared for the prosecution. Mr Heliotis and Mr Grant appeared for Mr Williams.¹⁰¹²
799. The hearing was held partly in camera to deal with the PII claims made by Victoria Police in relation to the information reports.¹⁰¹³
800. Mr Bateson could not recall whether there was any argument before Justice King about police notes, which would have revealed Ms Gobbo's involvement with Mr McGrath.¹⁰¹⁴

14 September 2005 – Gobbo Seeks Permission to Disclose Prior Informing to Bateson

801. On 14 September 2005, Ms Gobbo contacted Mr Bateson and told him that she was meeting with Steve Mansell of the MDID, and she wanted to know if

¹⁰⁰⁷ Transcript of Ms Nicola Gobbo, 6 February 2020, 13360, TRN.2020.02.06.01.P.

¹⁰⁰⁸ Transcript of Commander Stuart Bateson, 20 November 2019, 9655, TRN.2019.11.20.01.C.

¹⁰⁰⁹ Transcript of Commander Stuart Bateson, 20 November 2019, 9656, TRN.2019.11.20.01.C.

¹⁰¹⁰ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 30 June 2005, 55, OPP.0001.0004.0025 @.0079; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 13 [72] VPL.0014.0027.0001_R1 @.0013.

¹⁰¹¹ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 9 September 2005, 23, VPL.0015.0001.0409 @.0432; Transcript of Commander Stuart Bateson, 20 November 2019, 9656, TRN.2019.11.20.01.

¹⁰¹² RC0252 Purana Chronology prepared by Commander Stuart Bateson, 9 September 2005, 23, VPL.0015.0001.0409 @.0432; Transcript of Commander Stuart Bateson, 20 November 2019, 9656, TRN.2019.11.20.01.

¹⁰¹³ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 9 September 2005, 23, VPL.0015.0001.0409 @.0432; Transcript of Commander Stuart Bateson, 20 November 2019, 9656, TRN.2019.11.20.01.

¹⁰¹⁴ Transcript of Commander Stuart Bateson, 20 November 2019, 9656-9657, TRN.2019.11.20.01.C.

it was alright if she could tell them of her involvement with him. Mr Bateson said this was fine.¹⁰¹⁵

Gobbo Registered with the SDU

16 September 2005 – Initial Meeting with Handlers – Discussions about Bateson – Purana Murders

802. On 16 September 2005 Ms Gobbo's first meeting with the SDU occurred. At this meeting she did tell Mr Peter Smith and Mr Sandy White that she had been speaking to Mr Bateson. She said that she 'had made the decision about 12 months ago to assist Police' and that she had spoken to Mr Bateson about that decision.¹⁰¹⁶

803. She also informed Mr Sandy White and Mr Peter Smith that she had assisted Mr McGrath in becoming a Crown witness.¹⁰¹⁷

MS GOBBO: The second thing that changed probably in the last few months is that - not last few months - in 2003, 2004, even before the stroke or after the stroke's happened, 4, the first half of 2004, there's a little fellow that was acting for who ultimately is one of the most important Crown witnesses in the state and I don't know if you know about but as a consequence of - or in the period of acting for him, he turned on half the underworld and that brought considerable stress and pressure to me because I didn't want people to find out that I was the one who - through me he'd gone down that path.

804. She said that she was concerned that if this became known she would be killed by Mr Mokbel. She spoke of her fears about her role being disclosed.¹⁰¹⁸

MS GOBBO: I still live in fear of that coming out because all it's gunna take is for some Supreme Court judge to release police diary notes where it's me that they're meeting and it's me that they're speaking to, it's me editing, like, the statements before they get sworn and served, that sort of stuff.

805. This was identified as a 'risk' in the ICR of the meeting:¹⁰¹⁹

HS RISKS

¹⁰¹⁵ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 14 September 2005, 23, VPL.0015.0001.0409 @.0432; Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 11-12 [69] VPL.0014.0027.0001_R1 @.0011-.0012.

¹⁰¹⁶ Exhibit RC0281 ICR3838 (001), 16 September 2005, 2, VPL.2000.0003.1588.

¹⁰¹⁷ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, Paul Rowe and Steve Mansell, 16 September 2005, 19, VPL.0005.0037.0014 @.0032.

¹⁰¹⁸ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith, Paul Rowe and Steve Mansell, 16 September 2005, 19, VPL.0005.0037.0014 @.0032.

¹⁰¹⁹ Exhibit RC0281 ICR3838 (003), 26 September 2005, 14, VPL.2000.0003.1600.

HS states that HS assisted McGRATH become a crown witness re the gangland killings. HS is concerned that should this become known, she will be killed by MOKBEL. HS has spoken to D/Sgt Stuart BATESON, Op PURANA, about this. HS is concerned that SOLICITOR 2 may uncover HS involvement in this matter and tell MOKBEL. HS is particularly concerned that police diary notes, which have been censored, may be revealed at trial and disclose HS actions. Of equal concern would be the fact that HS had knowledge of these matters and did not disclose same to MOKBEL.

26 September 2005 – Gobbo Informs about Thomas

806. Ms Gobbo began providing information to Victoria Police about Mr Thomas almost immediately after her registration as a human source.¹⁰²⁰ Significantly, in one of her early meetings with her handlers, on 26 September 2005, Ms Gobbo told police that ‘Thomas [sic] and Cooper would both have sufficient information about Mokbel to put him away for a long time.’¹⁰²¹
807. Between September 2005 and 29 June 2006, the date upon which Mr Thomas was arraigned and pleaded guilty to the murder of Jason Moran, Victoria Police obtained extensive¹⁰²² information from Ms Gobbo concerning Mr Thomas’ background, circumstances, and activities. Such information included:
- information about his associations with other apparent criminals¹⁰²³
 - information about the ‘nicknames’ by which he was apparently known¹⁰²⁴
 - information about his previous involvement in drug activities¹⁰²⁵
 - information about who could incriminate him.¹⁰²⁶

¹⁰²⁰ Exhibit RC0281 ICR3838 (002), 20-21 September 2005, 11-12, VPL.2000.0003.1597-.1598; Exhibit RC0281 ICR3838 (003) 22 – 26 September 2005, 16, VPL.2000.0003.1602.

¹⁰²¹ Exhibit RC0281 ICR3838 (003), 22 September 2005, 14, VPL.2000.0003.1600

¹⁰²² Between those dates, Mr Thomas’ name or variations of it are mentioned approximately 160 times in the SDU ICRs.

¹⁰²³ See e.g. Exhibit RC0281 ICR3838 (002), 21 September 2005, 11-12, VPL.2000.0003.1597-1598; see transcript; 16 (re Tony Mokbel) 26.09.05 see transcript; p 33 (re Mr Thomas’ association with “R Bar” which Ms Gobbo suggested “on a Friday night ... is full of criminals”).

¹⁰²⁴ Exhibit RC0281 ICR3838 (004), 1 October 2005, 24, VPL.2000.0003.1610.

¹⁰²⁵ See e.g. Exhibit RC0281 ICR3838 (017), 2 February 2006, 142, VPL.2000.0003.1728; Exhibit RC0281 ICR3838 (019), 17 February 2006, 157, VPL.2000.0003.1743.

¹⁰²⁶ Exhibit RC0281 ICR3838 (021), 3 March 2006, 175, VPL.2000.0003.1761.

26 September to 14 November 2005 - Carl Williams Trial for the Murder of Michael Marshall

808. On 26 September 2005, the trial of Mr Williams for the murder of Mr Marshall commenced.¹⁰²⁷ On 14 November 2005, Mr Williams was convicted.¹⁰²⁸

Andrews 'Rolls'

February 2006 – Andrews Agrees to Plead Guilty and Give Evidence

809. On around 6 February 2006, Mr Andrews wrote to the OPP indicating that he may be willing to plead guilty and give evidence against his co-accused. Mr Ryan was largely dealing with this process, meeting with the DPP and Mr Horgan, although Mr O'Brien had some involvement and Mr Overland was being kept informed.¹⁰²⁹
810. On 9 February 2006, Mr Ryan spoke with Mr Horgan and Mr Overland when he learned that Mr Andrews had confided in his counsel, Mr Papas, that he had made overtures to the prosecution. A meeting took place that afternoon involving Messrs Coghlan, Horgan, Overland and Ryan where it was agreed that police would advise Mr Papas that they wished to speak with Mr Andrews. Mr Horgan later advised Mr Ryan that Mr Papas had arranged to visit his client.¹⁰³⁰

13 February 2006 – Andrews' Lawyers 'Conflicted Out'

811. On 13 February 2006, Messrs Ryan and O'Brien spoke with Mr Andrews in custody. During their conversation Mr Ryan spoke with Mr Overland and a call from Mr Andrews to Mr Papas was facilitated. Mr Ryan noted in his diary that Mr Papas was now 'conflicted out of the case'. To that point, Mr Andrews had also been represented by Solicitor 2, who was also representing co-accused, Carl Williams. Solicitor 2 was also conflicted in relation to her representation of Mr Andrews. It is apparent that Mr Papas recommended to Mr Andrews that he contact solicitor, Anthony Brand. Mr Ryan spoke with Mr Horgan about this recommendation, who advised that Mr Brand was also conflicted. A number of solicitors were recommended as possible replacements including Mr Paul Duggan, who was subsequently contacted by Mr Ryan and was then engaged by Mr Andrews.¹⁰³¹
812. From 13 February 2006, Messrs Bateson and L'Estrange commenced taking statements from Mr Andrews.¹⁰³² The information provided by Mr

¹⁰²⁷ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 12 [73], VPL.0014.0027.0001_R1 @.0012; Transcript of Proceedings 26 September 2005 RCMP1.0101.0001.0001.

¹⁰²⁸ Exhibit RC1880 Transcript of Proceedings, R v Carl Anthony Williams, 14 November 2005, 2, RCMP1.0101.0001.0032 @.0002.

¹⁰²⁹ Exhibit RC0312 Mr Gavan Ryan diary, 7-18 February 2006, 21-23, VPL.0005.0120.0187 @.0207-.0209; Exhibit RC0984 Mr Simon Overland diary, 6 February 2006, 242, VPL.0005.0264.0053 @.0294.

¹⁰³⁰ Exhibit RC0312 Mr Gavan Ryan diary, 13 February 2006, 23, VPL.0005.0120.0187 @0209; Exhibit RC0984 Mr Simon Overland diary, 9 February 2006, 245-246, VPL.0005.0264.0053 @.0297-.098.

¹⁰³¹ Exhibit RC0312 Mr Gavan Ryan diary, 13 February 2006, 23 VPL.0005.0120.0187 @0209; Exhibit RC0272 Commander Stuart Bateson diary, 13 February 2006, 88, VPL.0005.0058.0233 @.0320.

¹⁰³² Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 13 [77], VPL.0014.0027.0001_R1 @.0013; Exhibit RC0264 Statement of Detective Senior Sergeant Nigel L'Estrange, 11 June 2019, 4 [22], VPL.0014.0036.0001 @.0004.

Andrews related to several killings, including those of Messrs Jason Moran and Pasquale Barbaro.¹⁰³³ Mr Andrews was removed from the prison to make his statements. According to Mr Bateson, Mr Thomas, who was in the same prison at the same time as Mr Andrews, would have been aware of him being taken out of the prison.¹⁰³⁴

813. On the same day, Ms Gobbo told her handlers that she had heard from from Solicitor 2 that Mr Andrews had rolled and she considered that this would likely be in relation to the Moran/Barbaro/Marshall murders. She said that this would concern Messrs Mokbel, Williams and Thomas.¹⁰³⁵
814. On 14 and 15 February 2006, Mr Bateson facilitated private conferences between Mr Andrews and his new solicitor, Mr Duggan. On the afternoon of 14 February, he attended the offices of the OPP with Mr Ryan and Ms Kerley and briefed the DPP and Mr Horgan.¹⁰³⁶

Thomas Considers 'Rolling'

16 February 2006 – Gobbo Provides Information and Intelligence about Mr Thomas' Preparedness to Assist Police

815. On Thursday 16 February 2006, after having spoken to Mr Thomas by telephone and received confidential and privileged information, Ms Gobbo told her handler, Mr Peter Smith, that Mr Thomas was potentially wanting to plead guilty and give evidence against his co-accused.¹⁰³⁷ Ms Gobbo advised Mr Peter Smith, who subsequently told Mr O'Brien that Ms Gobbo and her instructing solicitor, Mr James Valos, would be visiting Mr Thomas over the weekend and would be advising him to 'do what is in his own best interests.'¹⁰³⁸
816. On Friday 17 February 2006, Ms Gobbo informed Mr Peter Smith that she had been warned by Mr Mokbel, for whom she was then appearing in a trial, about going to the prison and not to assist. She took this to mean not to involve herself with Mr Thomas.¹⁰³⁹

Early recognition of the potential for miscarriage

817. On the afternoon of 17 February 2006, Ms Gobbo spoke to her new handler, Mr Green, and told him that she had 'spoken to Stuart Bateson from Purana about Mr Thomas rolling over'. It is not clear from the ICR whether she was referring to a more recent discussion or an earlier one. Mr Green noted that she was 'happy to tell Bateson what is going on. Last contact with him was December/January'. Mr Green noted her previous association with Mr Bateson in relation to Mr McGrath 'doing the same thing', and that Mr

¹⁰³³ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 13 [77], VPL.0014.0027.0001_R1 @.0013.

¹⁰³⁴ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 13 [77], VPL.0014.0027.0001_R1 @.0013.

¹⁰³⁵ Exhibit RC0281 ICR3838 (018), 13 February 2006, 151-153, VPL.2000.0003.1737-1739.

¹⁰³⁶ RC0252 Purana Chronology prepared by Commander Stuart Bateson, VPL.0015.0001.0409; Exhibit RC0272 Commander Stuart Bateson diary, 14 February 2006, 88-89, VPL.0005.0058.0233 @.0320-.0321.

¹⁰³⁷ Exhibit RC0281 ICR3838 (018), 16 February 2006, 155-156 VPL.2000.0003.1741-1742.

¹⁰³⁸ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 17 February 2006, 135, VPL.0100.0073.0076_R1S @.0210.

¹⁰³⁹ Exhibit RC0281 ICR3838 (018), 17 February 2006, 156, VPL.2000.0003.1742.

Thomas' 'rolling over may include source's current clients'.¹⁰⁴⁰ Mr Bateson has not diarised a call from Ms Gobbo on this day.

818. During the day Ms Gobbo had spoken to Mr Green about having been previously advised by Tony Mokbel not to talk to Mr Thomas. She indicated her intention to continue to advise Mr Thomas, 'as it would be the right thing to do for [him]'. This had been reported to Mr O'Brien.¹⁰⁴¹
819. Mr Green was also communicating with Mr Sandy White during the day. He was told that Ms Gobbo had been advised to minimise contact with Mr Thomas and let Mr Valos deal with the matter. They discussed concerns that Mr Bateson might make entries in his diaries that would compromise Ms Gobbo. Mr Sandy White rang Mr O'Brien to obtain Mr Bateson's contact details, and then spoke with him. Mr Bateson told Mr Sandy White that he had not yet written any notes and confirmed that he was aware of Ms Gobbo's role as a human source and the 'issues' involved.¹⁰⁴² Mr Sandy White also recorded speaking with Mr O'Brien about 'minimising HS involvement in process from point of view of compromising self at later court hearings'.¹⁰⁴³
820. Ms Gobbo spoke with Mr Green and was advised not to get too close to Mr Thomas, as it would be an unnecessary risk if he were to co-operate.¹⁰⁴⁴ Similar advice was given to Ms Gobbo throughout the course of Ms Gobbo's informing. For example, on 23 February 2006:

*Source advised (by Mr Green) to stay away from Thomas and him assisting police as it will draw attention to her in her current position with Tony Mokbel trial etc etc previously acting for McGrath*¹⁰⁴⁵

821. On 27 February 2006:

*Source advised by (Mr Green) that she should not go and see Thomas for the Police sake. If Thomas asks for her help and in the normal course of her duty she would help then she should do as she normally ethically would do. This advised was based on discussions with Jim O'BRIEN from Purana. Purana do not care if Thomas rolls over or not but if he does he must go all the way.*¹⁰⁴⁶

822. On 21 March 2006 Ms Gobbo advised Mr Peter Smith that she was seeing Mr Thomas the next day. Mr Peter Smith advised Ms Gobbo that her overall situation would be better if she were not involved with Mr Thomas making statements if possible. Ms Gobbo told Mr Peter Smith that she was aware of that but felt obliged to do so.
823. She also said that she had spoken to Mr Bateson who apparently indicated that he would carry out a search warrant on her office as a ruse to obtain notes that Ms Gobbo claimed would contradict the assertions made in Mr Andrews' statement.¹⁰⁴⁷ The evidence suggests that the purpose of this was

¹⁰⁴⁰ Exhibit RC0281 ICR3838 (019), 177 February 2006, 156, VPL.2000.0003.1743.

¹⁰⁴¹ Exhibit RC0281 ICR3838 (019), 19 February 2006, 158-159, VPL.2000.0003.1744-1745.

¹⁰⁴² Exhibit RC0292 Mr Sandy White diary, 19 February 2006, 124, VPL.0100.0096.0468 @.0591.

¹⁰⁴³ Exhibit RC0284 SML3838, 19 February 2006, VPL.2000.0001.9447 @.9461.

¹⁰⁴⁴ Exhibit RC0281 ICR3838 (019), 19 February 2006, 159, VPL.2000.0003.1745.

¹⁰⁴⁵ Exhibit RC0281 ICR3838 (019), 23 February 2006, 163, VPL.2000.0003.1749.

¹⁰⁴⁶ Exhibit RC0281 ICR3838 (020), 27 February 2006, 171, VPL.2000.0003.1757.

¹⁰⁴⁷ Exhibit RC0281 ICR3838 (023), 21 March 2006, 202, VPL.2000.0003.1788.

to provide Ms Gobbo with a credible excuse as to how the police had obtained confidential information. Ultimately a warrant was executed by Purana detectives Mr Dale Flynn and Mr Hatt on 7 December 2006, to obtain this and other documentation that Ms Gobbo claimed she had possession of but could not merely hand over.¹⁰⁴⁸

824. Such advices were given in respect of the many clients whom Gobbo informed about and acted for. It is open to conclude that even in these early months, Mr Green was not only voicing concerns of a risk of exposure to Ms Gobbo if it was perceived by Mr Thomas' associates that she had encouraged another accused to give evidence, but an understanding of the hopelessly conflicted position Ms Gobbo was in, given that she had acted for Mr McGrath, and currently acting for Mr Mokbel and purporting to act for Mr Thomas, at the same time as informing against both of them. It is submitted that the risks of interference with the criminal justice process should have been equally apparent.

19 February 2006 – Mr Overland Learns that Thomas is Now Speaking to Police

825. On Sunday 19 February 2006, Ms Gobbo conducted a professional visit with Mr Thomas in custody,¹⁰⁴⁹ and then called Mr Bateson afterwards at 11:46am to tell him that Mr Thomas may want to talk to police.
826. It was agreed that Messrs Bateson and Hatt would attend a meeting with Ms Gobbo and Mr Valos at Mr Valos' office that evening at 6:30pm.¹⁰⁵⁰ Mr Bateson immediately called Mr Ryan and updated him on his discussion with Ms Gobbo, and in turn Mr Ryan contacted Messrs Overland, Horgan and O'Brien to advise them of the possible development. The situation was to be monitored and more information would come to light at the meeting that evening with 'Gobbo and solicitor at 18:30 hours'.¹⁰⁵¹

¹⁰⁴⁸ Exhibit RC0281 ICR3838 (051), 30 October 2006, 530, VPL.2000.0003.2116; Exhibit RC0281 ICR3838 (052), 2 November 2006, 537, VPL.2000.0003.2123; Exhibit RC0281 ICR3838 (053), 16 November 2006, 557, VPL.2000.0003.2143; Exhibit RC0281 ICR3838 (054), 26 November 2006, 565, VPL.2000.0003.2151; Exhibit RC0281 ICR3838 (055), 3 December 2006, 572, VPL.2000.0003.2158; Exhibit RC0281 ICR3838 (056), 5 December 2006, 576, VPL.2000.0003.2162; Exhibit RC0281 ICR3838 (056), 6 December 2006, 577, VPL.2000.0003.2163; Exhibit RC0281 ICR3838 (056), 7 December 2006, 578, VPL.2000.0003.2164.

¹⁰⁴⁹ Exhibit RC1574 Corrections register of prisoners visited by Ms Nicola Gobbo, 19 February 2006, 23, CNS.0001.0003.0037, @.0059; Exhibit RC0281 ICR3838 (019), 19 February 2006, 158 VPL.2000.0003.1744.

¹⁰⁵⁰ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 13 [78], VPL.0014.0027.0001_R1 @.0013; Exhibit RC0272 Commander Stuart Bateson diary, 19 February 2006, 91, VPL.0005.0058.0233 @.0323; Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022.

¹⁰⁵¹ Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022.

February 2006		
Date / Time	Particulars of Duties	Claims
24/11/05	Restored Rest Day #15 24/11/05 (17) Contacted at home by Det Sgt Bateson Andrews completing statement re [redacted] eng. to be conducted	
2000	Ray by Det Sgt Bateson - he has received a call from Bernice Nida Gobbo - Thomas may want to talk to police - advised of Overland and Geoff Hangan re same also spoke to Jim O'Brien and advised him. - Bateson / Matt to meet Gobbo & consult at 1820 hrs - non-acc situation	
19:0	Ring at home by Det Sgt Bateson has spoke to Bernice Gobbo & Jim, and they advise that Thomas willing to cooperate =	no

827. Quite obviously, this was another significant development in the breaking up of organised criminal activity that had been Purana's focus for three years by this stage. Accordingly, Mr Ryan was straight onto the phone to Mr Overland, on a Sunday, to inform him of the development.
828. Ms Gobbo contacted her handler, Mr Green and told him that Mr Thomas would 'talk to police' in relation to the murders with which he was charged as well as a number of other matters. She told him about the meeting that had been arranged with Mr Bateson that evening.¹⁰⁵²
829. Mr Bateson met with Ms Gobbo and her instructing solicitor Mr Valos and he was told that Mr Thomas was expressing a desire to see police regarding Jason and Mark Moran, and two other gang related shootings, one an unsolved murder, and the other an attempted murder.¹⁰⁵³ Mr O'Brien and Mr Ryan were updated by Mr Bateson about the outcome of the meeting with Ms Gobbo and Mr Valos.¹⁰⁵⁴
830. The following morning, Monday 20 February 2006, Messrs O'Brien, Ryan and Bateson met to discuss their next steps. There was discussion as to the possibility that arrangements might now have to be made for statements to be taken from Mr Thomas as well as Mr Andrews. It was foreseen that Mr Andrews would implicate Mr Thomas in the further unsolved murder of Paul Kallipolitis, and based upon information provided by Ms Gobbo, that Mr Thomas would implicate Mr Andrews in the attempted murder of [redacted].¹⁰⁵⁵

¹⁰⁵² Exhibit RC0281 ICR3838 (019), 19 February 2006, 158, VPL.2000.0003.1744.

¹⁰⁵³ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 13 [78], VPL.0014.0027.0001_R1 @.0013; Exhibit RC0272 Commander Stuart Bateson diary, 19 February 2006, 91, VPL.0005.0058.0233 @.0323.

¹⁰⁵⁴ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 20 February 2006, 137, VPL.0100.0073.0076_R1S @.0212; Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022.

¹⁰⁵⁵ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 20 February 2006, 140, VPL.0100.0073.0076_R1S @.0210.

831. Following that meeting, at 10:00am Mr Ryan contacted Mr Overland and updated him on the developments regarding Mr Andrews and Mr Thomas.¹⁰⁵⁶
832. Prior to the weekly Purana progress meeting, Mr Purton was briefed about the meeting which had occurred the previous day between Mr Bateson, Ms Gobbo and Mr Valos concerning Thomas. He noted that, 'Thomas was prepared to roll murders Jason/Mark Moran, [REDACTED] and Paul Kallipolitis (?) Conflict between Andrews and Thomas evidence. Wednesday to [REDACTED] and speak to Thomas'.¹⁰⁵⁷
833. At 2.00pm that afternoon, Mr Purton, O'Brien and Ryan attended a Purana Taskforce Unit meeting at which Messrs Overland and Blayney were also present.¹⁰⁵⁸ In the usual course they would have been updated about the progress of investigations.
834. On the same day, Mr Sandy White met with Mr O'Brien. Mr Sandy White diarised this meeting in which it was agreed that Mr O'Brien would monitor Mr Bateson's notes 're sanitising HS involvement in Thomas s'ment'.¹⁰⁵⁹ Mr O'Brien's diary referred to the meeting with Mr Sandy White but failed to mention this matter.¹⁰⁶⁰
835. At 5:15pm on 20 February Messrs Overland, Ryan, and Bateson, and Ms Kerley attended upon the DPP and Mr Horgan and updated them on the developments. The options were discussed regarding Mr Thomas, and it was agreed that Purana officers (O'Brien and Bateson) would visit Mr Thomas on Wednesday to speak to him.¹⁰⁶¹
836. Mr Overland was reluctant to concede that by this time he was aware that Ms Gobbo was acting for Mr Thomas.¹⁰⁶²
837. In his statement, Mr Overland says that at some unspecified time, he 'later came to understand that (Mr McGrath) was represented by Ms Gobbo, but (he) did not know this at the time'.¹⁰⁶³ Such knowledge would have been relevant to Mr Thomas' matter.
838. It is noteworthy that also on 20 February 2006, Mr O'Brien had a meeting with Mr O'Connell in relation to the Operation Primi investigation. That related to the murder of Mario Condello on 6 February 2006. He recorded in his diary that there were legal professional privilege issues in relation to a protected witness. In response to these issues Mr O'Brien recorded that he

¹⁰⁵⁶ Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022.

¹⁰⁵⁷ Exhibit RC0109 Mr Terry Purton diary, 20 February 2006, 14, VPL.0005.0067.0005 @.0018.

¹⁰⁵⁸ Exhibit RC0109 Mr Terry Purton diary, 20 February 2006, 14, VPL.0005.0067.0005 @.0018; Exhibit RC0312 Mr Gavan Ryan diary, 20 February 2006, 3, VPL.0005.0120.0107 @.0109.

¹⁰⁵⁹ Exhibit RC0292 Mr Sandy White diary, 20 February 2006, 125, VPL.0100.0096.0468 @.0592.

¹⁰⁶⁰ Exhibit RC0933 Mr James (Jim) O'Brien diary, 20 February 2006, 139, VPL.0100.0073.0076_R1S @.0214.

¹⁰⁶¹ Exhibit RC0312 Mr Gavan Ryan diary, 20 February 2006, 3, VPL.0005.0120.0107 @.0109; Exhibit RC0272 Commander Stuart Bateson diary, 91, 20 February 2006, VPL.0005.0058.0233 @.0323.

¹⁰⁶² Transcript of Mr Simon Overland, 17 December 2019, 11477-11478, TRN.2019.12.17.01.P.

¹⁰⁶³ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, COM.0014.0001.0001.

made contact with Ms Dianne Preston, a solicitor engaged by police, as well as the defence barrister of the protected witness.¹⁰⁶⁴

839. **On the evidence, it is open to the Commissioner to find that the evidence demonstrates that when it suited, or was uncontroversial, the Purana Taskforce had legal advice readily available to it.**

22 February 2006 – Purana’s First [REDACTED] Thomas

840. On 22 February 2006, Messrs O’Brien and Bateson [REDACTED] Mr Thomas [REDACTED] for the first time. They [REDACTED] conversation.¹⁰⁶⁵ There was discussion about the Moran-Barbaro murder and the steps involved in co-operation. Mr Thomas expressed his concern about the conversation being used against him and made clear his desire for independent legal advice:

THOMAS: Well knowing about things and trying to stop it. I don’t think that I should be locked up for it.

BATESON: Well I tell you what we’ve got to do, we’ve got to sit down and record all this and, you know, it’s gunna take a good amount of time, a good amount of time. Um that’s our next step.

THOMAS: You’ll use this against me anyway.

BATESON: Well we can’t use it against you Thomas.

THOMAS: I’m stressed mate, I need a solicitor or something, right.

BATESON: Well you do need a solicitor and you do need some advice about this but I can tell you right now, we can’t use it against you unless we caution you and give you your rights and tape record it and all that sort of stuff.¹⁰⁶⁶

841. As the conversation continued Mr O’Brien, clearly interested in obtaining evidence against the Mokbels, asked Mr Thomas about his involvement with Tony Mokbel and Mr Cooper at Rye in 2002. This related to MDID investigation, Operation Matchless, and was one of the matters for which Mr Cooper was awaiting his plea and sentence.¹⁰⁶⁷ Mr Thomas indicated that should he make statements, he would leave the Mokbels out of it.¹⁰⁶⁸

¹⁰⁶⁴ Exhibit RC0933 Mr James (Jim) O’Brien, 20 February 2006, 138, VPL.0100.0073.0076_R1S @.0213; Exhibit RC1750 Purana Taskforce Update, 20 February 2006, 1, VPL.0100.0012.0062.

¹⁰⁶⁵ Exhibit RC0475 Transcript of meeting between Thomas, James (Jim) O’Brien and Commander Stuart Bateson, 22 February 2006, VPL.0005.0062.0079.

¹⁰⁶⁶ Exhibit RC0475 Transcript of meeting between Thomas, James (Jim) O’Brien and Stuart Bateson, 22 February 2006, 16, VPL.0005.0062.0079 @.0094.

¹⁰⁶⁷ Exhibit RC0475 Transcript of meeting between Thomas, James (Jim) O’Brien, and Stuart Bateson, 22 February 2006, 20, VPL.0005.0062.0079 @.0098.

¹⁰⁶⁸ Exhibit RC0475 Transcript of meeting between Thomas, James (Jim) O’Brien, and Stuart Bateson, 22 February 2006, 28, VPL.0005.0062.0079 @.0100.

842. At this point Ms Gobbo was representing Mr Thomas, Mr Mokbel and Mr Cooper.

843. The conversation continued:

THOMAS: ... How do I know you can't use this against me?

BATESON: Talk to your lawyers about it.

O'BRIEN: Talk to your solicitors they'll tell you.

THOMAS: I'm fucked up right, I'm fucked up. Can I get my solicitors back out here?

BATESON: If you want to, yeah.

THOMAS: Right. I get them back out here.

BATESON: Talk to them.

O'BRIEN: Talk to them and then make contact with us through them, if like. See what you want to do.

BATESON: You're fully in or, we're not interested in half way.

THOMAS: No, no fucken half in or half out I know what your up to. You don't understand me ...when I give it to you but I don't want to do gaol. Can you give me some sort of, can you indicate to me (indecipherable).

O'BRIEN: That's up to the OPP, we can't influence that. All that will be, you're up front with us, you tell us everything that you know, we go out and do our best to corroborate what you're saying, from we already know to be known facts, that you're not privy to and if we believe you're telling the truth we'll put the best case that we've got to the OPP and then they'll make a decision with your solicitors. At which point you'll be advised and then you make the decision whether you want to.

THOMAS: (indecipherable) whether I move.

O'BRIEN: Whether you want to move or whether you want to make the statements or not.¹⁰⁶⁹

844. Following this there was further discussion about Mr Thomas speaking with his instructing solicitor, Mr Valos:

THOMAS: Can you say to Jim to come down and see me. Can you do that for me Mr Bateson?

¹⁰⁶⁹ Exhibit RC0475 Transcript of meeting between Thomas, James (Jim) O'Brien, and Stuart Bateson, 22 February 2006, 31-32, VPL.0005.0062.0079 @.0109-.0110.

BATESON: I can. My advice to you is that you're going to need to be frank and full with your solicitors. Going to have to.

THOMAS: Hang on, hang on. That's why I want you here, right and that's what I want to tell him. Jim told me to be frank. I'm going to tell Jim straight out.

BATESON: Yeah.

THOMAS: Frank.

O'BRIEN: Do you trust him?

THOMAS: Hey?

O'BRIEN: Do you trust him?

THOMAS: Yeah. Jim's alright. Jim's the one who told me to fucken roll.¹⁰⁷⁰

Continued Provision of Confidential Information Concerning Mr Thomas

845. That night, Ms Gobbo told her handler that Mr Valos told her that Mr Thomas wanted to talk to her.¹⁰⁷¹
846. On 23 February 2006, Ms Gobbo was again advised not to assist Mr Thomas as it would 'draw attention to her in her current position with Tony Mokbel trial etc etc previously acting for McGrath'.¹⁰⁷²
847. On 24 February 2006, Ms Gobbo told Mr Green that she and Mr Valos could not think of alternative representation for Mr Thomas, and that he needed a push to 'roll over and assist police'.¹⁰⁷³
848. Ms Gobbo continued to advise Mr Thomas. Nothing was done to prevent this, and as will be seen, police took advantage of the opportunity that her involvement, as both human source and lawyer, presented.
849. On 27 February 2006, after speaking with Mr Thomas on the telephone, Ms Gobbo reported the content of their communications to her handlers, including that Mr Thomas wanted her to 'tell Carl [Williams] that he is going to roll over' in light of an apparent agreement he had with Mr Williams whereby it would be acceptable for him 'to lag' in certain circumstances.¹⁰⁷⁴ She also told police that she 'advised [Mr Thomas] that the Police will want him to tell everything he knows not just bits and pieces'.¹⁰⁷⁵
850. It is to be presumed that the certain circumstances in which it would be acceptable for Thomas 'to lag' would be circumstances that were not unfavourable to Williams.

¹⁰⁷⁰ Exhibit RC0475 Transcript of meeting between Thomas, James (Jim) O'Brien, and Stuart Bateson, 22 February 2006, 34-35, VPL.0005.0062.0079 @.0112-.0113.

¹⁰⁷¹ Exhibit RC0281 ICR3838 (019), 22 February 2006, 161, VPL.2000.0003.1747.

¹⁰⁷² Exhibit RC0281 ICR3838 (019), 23 February 2006, 161, VPL.2000.0003.1749.

¹⁰⁷³ Exhibit RC0281 ICR3838 (020), 24 February 2006, 165, VPL.2000.0002.1751.

¹⁰⁷⁴ Exhibit RC0281 ICR3838 (020), 27 February 2006, 171, VPL.2000.0003.1757.

¹⁰⁷⁵ Exhibit RC0281 ICR3838 (020), 27 February 2006, 171, VPL.2000.0003.1757.

851. On 28 February 2006, Ms Gobbo advised police that '[a] heavy handed approach to Thomas would not work well'.¹⁰⁷⁶ She also reported to Mr Green that Mr Thomas had called 'begging for her to see him'. Mr Green recorded that:

Source has offered to help and give informed advice.

*He is being told to look after himself.*¹⁰⁷⁷

852. On 8 March 2006, Ms Gobbo told her handlers of her legal advice to Mr Thomas, detailing that she had told him that 'just giving up Carl Williams will not be enough' and that he 'needs to tell them about everything'.¹⁰⁷⁸ She also informed them that Mr Thomas 'is feeling depressed at the moment'.¹⁰⁷⁹

14 March 2006 – Gobbo 'Trust' Issues with Bateson

853. In early March 2006, Mr Andrews appeared before King J where he entered a plea of guilty to the murders of Michael Marshall, Jason Moran and Pasquale Barbaro. He gave an undertaking to give evidence in accordance with a number of statements he had made to the Purana Taskforce. A few days later he was sentenced to life imprisonment with a minimum of 23 years.

854. Mr Bateson was present at court, where Mr Andrews' co-operation was declared in open court.¹⁰⁸⁰ Mr Colin Lovitt, appeared on behalf of Mr Thomas.¹⁰⁸¹

855. One of those statements related to the murder of Mr Marshall. In the last two paragraphs Mr Andrews referred to Ms Gobbo as being involved in passing a message in relation to his payment for the murder following his arrest:

68. *While I was at the custody centre I was visited by my barrister Nicola Gobbo. I asked her to pass on a message to Carl and Tony and I rubbed my fingers together and mentioned Family Member. This action was referring to getting the money from Tony to go to Family Member so Family Member could be taken care of. Nicola wrote a note and put it to the screen. Although I don't remember the exact wording it said words to the effect that she would be seeing them that day.*

69. *A couple of days later I spoke to Carl Williams. He was actually at Family Member address. During this call Family Member or him told me that he had given Family Member some money. I later discovered that it was only \$1500. I have not received any more of the money promised.*¹⁰⁸²

¹⁰⁷⁶ Exhibit RC0281 ICR3838 (020), 28 February 2006, 172, VPL.2000.0003.1758.

¹⁰⁷⁷ Exhibit RC0281 ICR3838 (020), 28 February 2006, 172, VPL.2000.0003.1758.

¹⁰⁷⁸ Exhibit RC0281 ICR3838 (021), 8 March 2006, 180, VPL.2000.0003.1766.

¹⁰⁷⁹ Exhibit RC0281 ICR3838 (021), 8 March 2006, 180, VPL.2000.0003.1766.

¹⁰⁸⁰ Exhibit RC0272 Commander Stuart Bateson diary, 14 March 2006, 98-99, VPL.0005.0058.0233 @.0330-.0331.

¹⁰⁸¹ Exhibit RC0783 Statement of Mr Colin Lovitt, 14 November 2019, 3, COM.0095.0001.0001 @.0003.

¹⁰⁸² Exhibit RC0637 Statement of unnamed, 7 March 2006, 15, VPL.0100.0001.4784 @.4862.

856. A copy of this statement appears to have been contained on an SDU file with a fax header indicating it was sent at 7:45pm on 14 March 2006.¹⁰⁸³
857. By 8:25pm, Ms Gobbo had found out about the contents of Mr Andrews' statement. She rang Mr Green, expressed her fury and denied the conversation with Mr Andrews. Ms Gobbo said that the statement should have been 'checked' before being produced in the Supreme Court, indicating that she had made sure everything that Mr McGrath said was true before it had been used in his statement. She foresaw that she would now be subpoenaed by the defence and spoke of 'trust issues' with Mr Bateson.¹⁰⁸⁴
858. On 15 March 2006, Ms Gobbo expressed her unhappiness with Mr Green at various times throughout the day, culminating in her wanting an explanation from the Purana Taskforce. Mr Green spoke to Mr O'Brien about the matter and was told the information about Ms Gobbo was not of any significance to Purana investigators, much of the detail having already been led at the committal. He said he would arrange for Mr Bateson to speak with Ms Gobbo and explain the actions taken.¹⁰⁸⁵ Mr O'Brien recorded in his diary receiving intelligence from Mr Green that had come from Ms Gobbo, however, did not record the conversation dealing with Mr Andrews' statement.¹⁰⁸⁶
859. On 16 March 2006, Mr Peter Smith sought approval from Detective Inspector Dean McWhirter for a meeting between Ms Gobbo and Mr Bateson in order to resolve Ms Gobbo's issues around the statement by Mr Andrews.¹⁰⁸⁷ Mr McWhirter was acting as Ms Gobbo's controller whilst Mr Sandy White was on leave between 13 and 24 March 2006.¹⁰⁸⁸
860. Later that day, Mr Peter Smith advised Ms Gobbo that Mr Bateson would contact her to explain the actions that had been taken by the Purana Taskforce.¹⁰⁸⁹

15 March 2006 – Purana's Second [REDACTED] to Thomas

861. On 15 March 2006, Messrs O'Brien and Bateson spoke with Mr Thomas [REDACTED] for the second time. The conversation was [REDACTED].
862. The transcript of the meeting between Messrs Thomas, O'Brien and Bateson reveals that during the meeting, Mr Thomas said that he had been speaking with Ms Gobbo and Mr Valos about his situation.¹⁰⁹⁰ There then occurred the following conversation:

THOMAS: Do I keep the solicitors?

¹⁰⁸³ Exhibit RC0637 Unsigned statement of 'Andrews', 7 March 2006, 65-80, VPL.0100.0001.4784 @.4848-4863.

¹⁰⁸⁴ Exhibit RC0281 ICR3838 (022), 14 March 2006, 188, VPL.2000.0003.1774.

¹⁰⁸⁵ Exhibit RC0281 ICR3838 (022), 15 March 2006, 189, VPL.2000.0003.1775.

¹⁰⁸⁶ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 15 March 2006, 166, VPL.0100.0073.0076_R1S @.0241.

¹⁰⁸⁷ Exhibit RC0284 SML3838, 16 March 2006, 20, VPL.2000.0001.9447 @.9466.

¹⁰⁸⁸ Exhibit RC0284 SML3838, 13 March 2006, 20, VPL.2000.0001.9447 @.9466.

¹⁰⁸⁹ Exhibit RC0281 ICR3838 (022), 15 March 2006, 189, VPL.2000.0003.1775.

¹⁰⁹⁰ Exhibit RC0772 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 15 March 2006, 3 VPL.0005.0062.0176, @.0178.

BATESON: Hey?

THOMAS: Do I keep the solicitors?

BATESON: Well look I'm not sure, it's up to you.

THOMAS: Jim's, I've got heaps of confidence in Jim. Nicola's good but she has to give something, I can't, you know what I mean?

BATESON: I personally think that you're better off with independent um legal representation.

THOMAS: That's what I mean.

BATESON: That's what I personally think. Now I can't tell you to change solicitors, um, or anything because as far as I know they're both very good. But what I'm saying is that they're involved with a lot of other people.¹⁰⁹¹

863. In his statement to the Commission Mr Bateson relied upon this passage, asserting:

At my meeting with [Mr Thomas] I told him that I thought he should consider engaging a barrister other than Ms Gobbo. I did that because Ms Gobbo was acting for a lot of people in or related to Williams' criminal enterprise and, by this time, I also knew that she was a registered human source. I thought it better for [Mr Thomas] to have a barrister who had no such involvement.¹⁰⁹²

864. **On the evidence, it is open to the Commissioner to find that although at one stage in his 15 March 2006 conversation with Mr Thomas, Mr Bateson said to Mr Thomas 'I personally think that you're better off with independent um legal representation', when that conversation is considered as a whole, Mr Bateson:**

- 864.1. **did not discourage Mr Thomas from retaining Ms Gobbo**
- 864.2. **made statements vouching for Ms Gobbo's honesty which in the context of what he knew about Ms Gobbo's role as a human source, he knew to be untrue.**

865. Towards the end of this conversation Mr Thomas requested that the police speak to [REDACTED] for him, before he made a decision to co-operate, suggesting Mr Bateson take Ms Kerley to see [REDACTED] was relaxed around her,¹⁰⁹³ which they did the following day.¹⁰⁹⁴

¹⁰⁹¹ Exhibit RC0772 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 15 March 2006, 11, VPL.0005.0062.0176 @.0187.

¹⁰⁹² Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 14 [83], VPL.0014.0027.0001_R1 @.0014.

¹⁰⁹³ Exhibit RC0772 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 15 March 2006, 24-27, VPL.0005.0062.0176 @.0199-.0202.

¹⁰⁹⁴ Exhibit RC0272 Commander Stuart Bateson diary, 16 March 2006, 99-100, VPL.0005.0058.0233 @.0331-.0332.

866. [REDACTED], Messrs O'Brien and Bateson also spoke with Mr Gregory who indicated a willingness to co-operate with police in relation to the murder of Lewis Moran, including providing details of who had paid for that killing.¹⁰⁹⁵ In that regard, he later alleged the involvement of Tony Mokbel and Carl Williams.
867. Following his return to the office, Mr O'Brien updated Mr Overland about the [REDACTED]. They, along with Mr Ryan, discussed interview strategies in relation to Messrs Thomas and Gregory. Mr O'Brien then spoke with Mr Horgan about the developments.¹⁰⁹⁶

18 March 2006 – Bateson Smooths Things Over

868. On 18 March 2006, Ms Gobbo met with Mr Bateson to discuss Mr Andrews' statement. Mr Bateson's evidence to the Commission was that he attended the meeting as Mr O'Brien wanted him to speak to Ms Gobbo to 'smooth the waters'.¹⁰⁹⁷
869. She told her handler that he apologised for not having advised her of the statement after it had been taken. Ms Gobbo said she could not recall the details of the Andrews matter as she had suffered a stroke and could not find her notes. She said she had asked Mr Bateson to obtain a warrant to search her chambers prior to his taking the statement from Mr Andrews, and that he should do it that week as she was getting pressure from Solicitor 2 in relation to making a statement about the matter. Ms Gobbo later called back indicating she had located her notes.¹⁰⁹⁸
870. Mr Bateson and Mr O'Brien both referred to Ms Gobbo by her registered human source number in their diary entries:
- Bateson recorded in his diary of the meeting 'registered source 38/38' at a South Melbourne café where they discussed issues surrounding Mr Andrews' statements. His notes indicated that he digitally recorded the conversation. This recording was not produced to the Commission as it was unable to be located¹⁰⁹⁹
 - Mr O'Brien recorded in his diary that he had spoken with Mr Bateson who advised that he 'had met with 3838 re smooth things over' and that he would submit an IR in relation to the matter.¹¹⁰⁰ No IR was produced to the Commission.
871. This was consistent with Mr Sandy White's exhortations on 19 February 2006 that care be taken not to compromise Ms Gobbo when they were making such diary entries. At that time Mr Bateson had indicated that he was aware of the issues. It is to be recalled that Mr Bateson was involved in concealing from the defence diary entries which indicated Ms Gobbo's

¹⁰⁹⁵ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 15 March 2006, 166, VPL.0100.0073.0076_R1S @.0241.

¹⁰⁹⁶ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 15 March 2006, 166-7, VPL.0100.0073.0076_R1S @.0241-.0242.

¹⁰⁹⁷ Transcript of Commander Stuart Bateson, 21 November 2019, 9713-9714, TRN.2019.11.21.01.C.

¹⁰⁹⁸ Exhibit RC0281 ICR3838 (023), 18 March 2006, 196, VPL.2000.0003.1782.

¹⁰⁹⁹ Exhibit RC0272 Commander Stuart Bateson diary, 18 March 2006, 101, VPL.0005.0058.0233 @.0101; Transcript of Commander Stuart Bateson, 21 November 2019, 9711-9713, TRN.2019.11.21.01.C.

¹¹⁰⁰ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 15 March 2006, 166, VPL.0100.0073.0076_R1S @.0241.

involvement in Mr McGrath's representation and statement process. Mr Bateson in that case had referred to Ms Gobbo by name in his diaries. If he had done so again, this would have called for explanation by a judicial officer should they examine his notes. The consequence of referring to Ms Gobbo in their notes as a human source enabled the claiming of public interest immunity, without the likely call for any explanation.

872. Mr Peter Smith advised Mr McWhirter of the outcome of the meeting between Ms Gobbo and Mr Bateson.¹¹⁰¹
873. On 19 March 2006, after having conferred with Mr Thomas in custody the day before, Ms Gobbo informed police that he was '99% likely to make a statement to assist OP Purana'.¹¹⁰²
874. Mr Thomas later gave evidence that, around this period, Ms Gobbo convinced him to assist police over about two weeks; said he was 'getting nagged by' Ms Gobbo and that she was telling him that there was 'no way out of it, make a statement and do a deal'.¹¹⁰³

21 March 2006 – Ms Gobbo Assists to Smooth Out a Hurdle with Mr Thomas' Personal Partner

875. On 21 March 2006, Mr Bateson and Ms Kerley visited Mr Thomas' Personal Partner to speak further [REDACTED] about [REDACTED] potential co-operation with the Purana Taskforce and the practical consequences that would flow if that occurred. The meeting was not a long one, with Mr Thomas' personal partner indicating that [REDACTED] would be maintaining his innocence.¹¹⁰⁴
876. A few hours later Mr Bateson received a telephone call from Ms Gobbo who told him she had been contacted by Mr Thomas' personal partner and they were meeting the following morning. Mr Bateson explained to Ms Gobbo what had occurred at the meeting that afternoon. Mr Bateson referred to Ms Gobbo as '38/38' in his day book entry.¹¹⁰⁵ Doing so meant that in any prosecution in which Mr Bateson was called upon to produce his contemporaneous notes, he could claim that he was not obliged to do so on the basis of informer privilege, or alternatively claim that he was not obliged to identify the person as he/she was an informer.
877. On 22 March 2006, Ms Gobbo had her arranged meeting with Mr Thomas' personal partner.¹¹⁰⁶

¹¹⁰¹ Exhibit RC0284 SML3838, 19 March 2006, 21, VPL.2000.0001.9447 @.9467.

¹¹⁰² Exhibit RC0281 ICR3838 (023), 19 March 2006, 196, VPL.2000.0003.1775.

¹¹⁰³ Transcript of Proceedings, *The Police v Antonios Sajih Mokbel, Milad Mokbel and Jacques El-Hage*, 18 June 2009, 28-31, 48-49, OPP.0002.0011.5744 @.5771-.5774, .5791-.5792.

¹¹⁰⁴ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 14 [85], VPL.0014.0027.0001_R1 @.0014; Exhibit RC0272 Commander Stuart Bateson diary, 21 March 2006, 102, VPL.0005.0058.0233 @.0334.

¹¹⁰⁵ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 14 [85], VPL.0014.0027.0001_R1 @.0014; Exhibit RC0272 Commander Stuart Bateson diary, 21 March 2006, 102, VPL.0005.0058.0233 @.0334.

¹¹⁰⁶ Exhibit RC0281 ICR3838 (023), 22 March 2006, 204, VPL.2000.0003.1790.

878. At midday, after having spoken with Ms Gobbo, Mr Thomas' personal partner rang Mr Bateson and told him to go and speak to [REDACTED], who wanted to tell the truth.¹¹⁰⁷
879. Ms Gobbo later told her handlers about the content of this meeting later that evening. She revealed that Mr Thomas' personal partner had many questions about [REDACTED] 'likely decision to make statements to assist Purana investigations'. She also told her handlers that Mr Thomas' personal partner was not happy with the level of detail [REDACTED] had been given in the meeting with [REDACTED] the previous day about the consequences of that decision. Ms Gobbo told her handlers to pass the information on to Mr Bateson 'in order to assist this process'. This information was accordingly passed on to Mr O'Brien, no doubt with the intention that it would assist him in the 'process' of having Mr Thomas assist him in his investigative endeavours which necessarily involved Mr Thomas pleading guilty to murder(s).¹¹⁰⁸
880. Further, the inference is open that Ms Gobbo exerted influence over Mr Thomas' personal partner (see comments made by [REDACTED] in his discussions with Messrs O'Brien and Bateson in next section), for whom she was also acting in relation to unrelated charges (see case review concerning Mr Thomas' personal partner), to assist in convincing Mr Thomas to co-operate with the police.

23 March 2006 - Purana's Third [REDACTED] Thomas

881. On 23 March 2006, Messrs O'Brien and Bateson [REDACTED] Mr Thomas for the third time.
882. Mr Bateson dealt with [REDACTED] in his statement in the following manner:
- On 22 March 2006, [Mr Thomas' personal partner] informed me by telephone that [REDACTED] wanted me to [REDACTED] and that he would tell the truth. I met with [REDACTED] the following day. After [REDACTED] I spoke to his [Mr Thomas' personal partner] and told [REDACTED] my view that he was not being totally forthcoming.¹¹⁰⁹*
883. The meeting with Mr Thomas was [REDACTED]. From the outset of the conversation, Mr Thomas provided information in relation to various matters, including:
- the murders of Jason Moran and Pasquale Barbaro on 21 June 2003, including that he and Carl Williams had spoken to Ms Gobbo by telephone shortly after the murders and she told them that Jason Moran had been shot¹¹¹⁰
 - the shooting of [REDACTED]¹¹¹¹

¹¹⁰⁷ Exhibit RC0272 Commander Stuart Bateson diary, 22 March 2006, 105, VPL.0005.0058.0233 @.0336.

¹¹⁰⁸ Exhibit RC0281 ICR3838 (023), 22 March 2006, 204, VPL.2000.0003.1790.

¹¹⁰⁹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 14 [85], VPL.0014.0027.0001_R1 @.0014.

¹¹¹⁰ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 1-36, VPL.0005.0062.0609 @.0609-.0643.

¹¹¹¹ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 38-40, VPL.0005.0062.0609 @.0646-.0648.

- the murder of [REDACTED]¹¹¹²
 - the criminal involvement of former member of police, Paul Dale, with Carl Williams¹¹¹³
 - the murder of Mark Mallia¹¹¹⁴
 - the murder of Michael Marshall¹¹¹⁵
 - drug manufacture and trafficking involving various people including the Mokbels, Carl Williams, Cooper, and Willy Thompson.¹¹¹⁶
884. Having provided information in relation to these matters, Mr Thomas asked about the next steps. Mr Bateson told him that they would consider what he had said, discuss it with the prosecutors, and get back to him. There was then further discussion of Mr Thomas' criminal liability for the murders of Jason Moran and Pasquale Barbaro given his supply of the gun to Carl Williams.¹¹¹⁷
885. Following this Mr Thomas was asked by Mr O'Brien about his intention in relation to legal representation:

O'BRIEN: Mm. So what are you gunna do as far as a solicitor goes?

THOMAS: Well depends what you want to do. Can I ask a question?

O'BRIEN: Yeah.

THOMAS: Nicola, listen to this one right, you have got to answer this one for me, Nicola and Jim would like to convince me, because Nicola knows right, really I shouldn't be doing fucking 34 years for nothing, cos she knows a fair bit about it and she's the one that convinced me to come in as well and Jim Valos, Jim Valos always has. Forget Jim now. I want to ask you, one sec, I want to ask you a question, right Nicola's the one who convinced me and she convinced [Mr Thomas' personal partner] yesterday too, I don't know but I trust her, who can I get to put it all together for me?

BATESON: Look, I reckon Jim Valos is an honest solicitor.

¹¹¹² Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 40-60, VPL.0005.0062.0609 @.0648-.0668.

¹¹¹³ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 47-49, 73-76, VPL.0005.0062.0609 @.0655-.0657, .0681-.0684.

¹¹¹⁴ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 60-63, VPL.0005.0062.0609 @.0668-.0670.

¹¹¹⁵ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 63-70, VPL.0005.0062.0609 @.0671-.0678.

¹¹¹⁶ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 1-76, 80-81, VPL.0005.0062.0609 @.0609-.0684, .0688-.0685.

¹¹¹⁷ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 76-79, VPL.0005.0062.0609 @.0684-.0687.

THOMAS: He's a [REDACTED] though. What I mean by that

BATESON: Yeah?

THOMAS: Yeah.

BATESON: But he's honest.

THOMAS: Yeah.

BATESON: **And I believe Nicola is ultimately honest too.**

THOMAS: **She is but I don't think she'll sell me out to 'em.**

BATESON: **Well I don't think she will either.**

THOMAS: **I'll be honest with you. I've got a gut feeling she'd rather help you than help what's going on out there.**

BATESON: **Well I don't know about that but I think she's honest mate.**

THOMAS: **Can I ask this question? If, whatever happens, I need someone I can trust right. Nicola's the one, like they come in (indecipherable) they were convincing me that, and they convinced [Mr Thoma's personal partner] yesterday, after what happened**

O'BRIEN: **I think it'd be advantageous for you to have someone independent.**

THOMAS: **That's what I was thinking but at the same time they don't know my whole situation. Nicola knows the inside and outside of it, do you understand what I'm trying to say. If there was an agreement, she's sort of, you know what I mean?**

BATESON: **Well from my point of view that's all up to you. From my point of view I just want to say that ah I think Nicola ah**

THOMAS: **Would you use Nicola?**

BATESON: **Oh.**

THOMAS: **I'm Thomas, if you're Thomas, if, I've told you how upfront it is.**

O'BRIEN: **Alls you want is somebody who's going to act for you properly and in your best interests and be honest.**

THOMAS: **And no-one can know nothing, that's it.**

BATESON: **And I think, and I think she would do that.**

O'BRIEN: **And keep their mouth shut.**

THOMAS: *She'll keep her mouth shut.*

BATESON: *Can I just say this.*

THOMAS: *The only reason she's doing it for me, I don't want to piss in her pockets, cos she knows what I'm going through for is (indecipherable)*

BATESON: ***Can I just say this, you know, I do believe she's honest. You know, I do believe that she***

THOMAS: *But I'm not putting pressure on her.*

BATESON: ***You are putting her in a difficult situation.***

THOMAS: ***I've asked her that question. I've asked Jim. And Jim will relieve himself. And Nicola goes no I'll fight for you the whole way.***

BATESON: ***Well that's up to Nicola but that's what you're putting her in.***

THOMAS: ***Yeah, I asked her that question. And she told me yesterday, you know what I mean, like I said to her, I said to her you want to be fucking hit left right and centre what's going on.***

BATESON: ***Mm.***

THOMAS: ***Right. And she goes no. I want to fight for you. She told Mr Thomas' personal partner the same thing yesterday.***

BATESON: ***Well, I mean from my point of view, I think Nicola is an honest barrister.***

THOMAS: ***If there is something going, the reason I want her is she knows the whole situation. I can't get some bloke Joe Blow off the street.***

BATESON: ***All right then.***¹¹¹⁸

886. In evidence, Mr Bateson was asked how he could say that a person he knew to be acting as an agent of police and providing information against people for whom she acts, was honest. He responded that he was giving his genuine view to Mr Thomas as:

- he did not think that Ms Gobbo's actions necessarily excluded her from being honest
- he believed he was responding to Mr Thomas' questions about whether Ms Gobbo could be trusted to keep his potential co-operation confidential, and having dealt with her in relation to Mr McGrath, she could be so trusted

¹¹¹⁸ Exhibit RC0476 Transcript of meeting between Thomas, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 81-84, VPL.0005.0062.0609 @.0689-.0692.

- he believed Ms Gobbo would give Mr Thomas good advice.¹¹¹⁹

887. **On the evidence, it is open to the Commissioner to reject Mr Bateson's evidence in this regard. That is so because:**

- 887.1. **it would have been clear to Mr Bateson that Ms Gobbo's actions necessarily excluded her from being honest**
- 887.2. **the context of the relevant words within the exchange demonstrate that Mr Thomas' concerns, and Mr Bateson's assurances, were not simply as to Ms Gobbo's trustworthiness in keeping Mr Thomas' potential co-operation confidential**
- 887.3. **in the circumstances, he could not have believed that Ms Gobbo would give Mr Thomas good, independent, advice.**

888. Mr O'Brien in his evidence:

- agreed that neither he nor anyone else from Victoria Police made Mr Thomas aware of important information relating to Ms Gobbo's conflict of interest
- agreed that he knew Ms Gobbo had not told Mr Thomas she was a human source
- agreed that he and Mr Bateson knew that she was acting in the interests of the police and not Mr Thomas
- agreed that Ms Gobbo was probably not independent
- agreed that Ms Gobbo was the antithesis of someone who was acting properly in relation to her duties as a lawyer
- said he sought no advice about Ms Gobbo's representation of Mr Thomas and did not instruct Mr Bateson to seek any such advice, although he may have spoken to Mr Ryan about it
- said he may have reported Ms Gobbo's continued involvement with Mr Thomas up the line in his weekly briefings to Mr Overland and others
- attempted to justify Ms Gobbo's continued involvement in advising Mr Thomas, stating 'he appeared to be hell bent on having her'.¹¹²⁰

889. Mr Thomas was charged with a double execution murder. He was considering pleading guilty. He was considering co-operating with Victoria Police in circumstances that would have lifelong and life-threatening implications. He was making very clear his concern to obtain legal advice

¹¹¹⁹ Transcript of Commander Stuart Bateson, 21 November 2019, 9776-9777, TRN.2019.11.21.01.C.

¹¹²⁰ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5647-5652, RC_MPI_05Sep19_provisional.

from someone who was independent and would be acting in his best interests, which was his fundamental right.

890. It is submitted that even if Messrs O'Brien, Bateson and others were determined not to reveal Ms Gobbo's status as a human source to Mr Thomas, or even to the DPP or their own lawyers, they could at least have:

- told Ms Gobbo that she could not act
- sought advice from the DPP as to Ms Gobbo's conflict on the basis that she had previously represented Mr McGrath (to the extent it was known)
- sought advice from the DPP as to Ms Gobbo's conflict on the basis that she was potentially a witness, having spoken to Messrs Carl Williams and Thomas shortly after the murder.

891. It is apparent that Mr O'Brien was concerned about the implications of Ms Gobbo acting for Mr Thomas. Mr O'Brien spoke to Mr Peter Smith shortly after he had left the gaol with Mr Bateson. He suggested that Ms Gobbo recommend another barrister to Mr Thomas.¹¹²¹

28 March 2006 – Solicitor 2 Conflict Raised with the Court

892. On 28 March 2006, a mention occurred in the Supreme Court before Justice King in the Williams and Thomas prosecutions for the Moran/Barbaro murders. The mention related to subpoenas issued by Solicitor 2 on behalf of Mr Williams in advance of his trial. Mr Lovitt appeared on behalf of Mr Thomas.¹¹²² Mr Horgan appeared on behalf of the Crown.

893. The issue of Solicitor 2's conflict was raised during the mention. Mr Bateson, who was in the court noted in his day book, 'Raised issue of Solicitor 2's conflict, parties to consider to her position.'¹¹²³

894. On 30 March 2006, another mention was held before Justice King in relation to the subpoenas and there was further discussion in relation to Solicitor 2's conflict of interest. Solicitor 2 proposed that she would seek a ruling from the Ethics Committee that she could continue to act for Mr Williams, but not be present in court or have involvement in the examination of her former client, Mr Andrews. Justice King responded:

*No, I don't think that would be sufficient. I don't think you can have anything to do with this trial because you took instructions, I would presume, from Mr Andrews in respect of this proceeding.*¹¹²⁴

895. Mr Bateson was again present and he made the following notes in his day book:

¹¹²¹ Exhibit RC0281 ICR3838 (023), 23 March 2006, 204-205 VPL.2000.0003.1790-1791.

¹¹²² Exhibit RC0272 Commander Stuart Bateson diary, 28 March 2006, 106, VPL.0005.0058.0233 @.0338; Exhibit RC0783 Statement of Mr Colin Lovitt, 14 November 2019, 3, COM.0095.0001.0001 @.0003.

¹¹²³ Exhibit RC0272 Commander Stuart Bateson diary, 28 March 2006, 106, VPL.0005.0058.0233 @.0338.

¹¹²⁴ RC0780, Transcript of Mention Hearing, *R v Carl Williams and Thomas*, Justice King J, 30 March 2006, 3, RCMPI.0109.0001.0001 @.0003.

Also Solicitor 2 was told by Justice King her conflict was clear and she was not to act for CW in Moran/Barbaro trial.

Solicitor 2 undertook to speak to CW about Moran/Barbaro and Andrews solicitor to be Solicitor 2's associate (USELESS direction!)

896. In between these hearings Mr Bateson had attended a number of meetings with lawyers engaged by Victoria Police, solicitor Dianne Preston, and barrister Robert Lancy, in relation to the preparation of a confidential affidavit in order to resist disclosure of material called for under the subpoena.¹¹²⁵
897. He had also attended a meeting at the OPP including Messrs Coghlan, Horgan, Overland, Ryan and Ms Vaile Anscombe, the OPP instructing solicitor.

898. **On the evidence, it is open to the Commissioner to find that on 30 March 2006 (if not before) Mr Bateson was well aware of the impropriety of Ms Gobbo acting for Mr Thomas due to her previous representation of Mr McGrath and failed to raise the issue for consideration with the lawyers prosecuting the matters or lawyers from whom advice could have been obtained. That is so because:**

- 898.1. **he knew of Ms Gobbo's previous representation of Mr McGrath**
- 898.2. **he knew Ms Gobbo was acting for Mr Thomas**
- 898.3. **the Court raised the propriety of a similar situation, concerning Solicitor 2, in his presence.**

April 2006 – Prison Conference Proposed and Purana Involvement in Tasking of Gobbo as Thomas' Lawyer

899. On 4 April 2006, Mr Lovitt appeared for Mr Thomas for a pre-trial *Basha* hearing in the Supreme Court before Justice King, where he cross-examined Mr Andrews. Mr Bateson was involved in facilitating the video link from the location at which Mr Andrews was located.¹¹²⁶ Whilst Mr Bateson's day book indicates he was on a sick day on 4 April, he recorded that he subsequently debriefed Mr Andrews about the hearing. Mr Bateson would have known that Mr Lovitt, a very experienced criminal barrister,¹¹²⁷ was continuing to represent Mr Thomas.
900. On 5 April 2006, Ms Gobbo told Mr Peter Smith that she believed Mr Thomas was at a stalemate with the police and prosecution in relation to his co-operation.¹¹²⁸

¹¹²⁵ Exhibit RC0272 Commander Stuart Bateson diary, 29 March 2006, 106, VPL.0005.0058.0233 @.0338.

¹¹²⁶ Exhibit RC0783 Statement of Mr Colin Lovitt, 14 November 2019, 3-4, COM.0095.0001.0001 @.0003-.0004; Exhibit RC0272 Commander Stuart Bateson diary, 3-6 April 2006, 109, VPL.0005.0058.0233.

¹¹²⁷ Transcript of Commander Stuart Bateson, 21 November 2019, 9761, TRN.2019.11.21.01.C.

¹¹²⁸ Exhibit RC0281 ICR3838 (025), 13 April 2006, 226, VPL.2000.0002.1812.

901. Following this time, a number of people, including Solicitor 2 and Carl Williams, came to believe that Mr Thomas might plead guilty and co-operate with the police.¹¹²⁹ On 13 April 2006, Ms Gobbo spoke with Mr Peter Smith and requested approval be sought from Purana that she attend a meeting at the gaol with Solicitor 2, Carl Williams and Mr Thomas.¹¹³⁰ Ms Gobbo spoke again with Mr Black telling him she believed such a meeting would stop gossip about Mr Thomas. Following this, Mr Black spoke with Mr O'Brien, who indicated that he did not want the gaol meeting to proceed.¹¹³¹ Ms Gobbo was told the gaol conference was unlikely to be sanctioned.¹¹³²
902. In the meantime, Solicitor 2 wrote to the gaol requesting the joint conference and on 18 April 2006, Ms Gobbo reported to her handlers that the meeting had been cancelled due to a lack of staff at the prison. The ICR indicates that Mr O'Brien was updated about this and developments in relation to Mr Cooper.¹¹³³
903. On 19 April 2006, a meeting occurred between Messrs O'Brien, Ryan and Bateson at around 9:00am. It was determined that Purana would no longer reach out directly to Mr Thomas, rather they would provide confidential transcripts of their discussions with him to Ms Gobbo (3838) and have her 'approach' him.
904. Mr Bateson recorded:
- Meeting with ADDI O'Brien, DDI Ryan re Thomas. Resolved – Nil further approach from us at this stage. Supply transcripts to 3838 with edits and have her approach [Mr Thomas].¹¹³⁴*
905. Mr O'Brien recorded:
- Coffee with DI Ryan and DS Bateson – discuss Thomas issues.¹¹³⁵*
906. Mr Ryan recorded:
- Meeting with D/A/I O'Brien and D/S Bateson re Thomas – to talk to OPP re same – what is situation re his defence – plea?¹¹³⁶*
907. Following this meeting, Mr O'Brien met with Messrs Sandy White, Peter Smith and Green. Mr Sandy White's diary entry in relation to this meeting includes:
- Request for HS to S/T Thomas¹¹³⁷*
908. He also recorded in the SML:

¹¹²⁹ Exhibit RC0281 ICR3838 (026), 12 April 2006, 234-235, VPL.2000.0003.1820-1821.

¹¹³⁰ Exhibit RC0281 ICR3838 (026), 13 April 2006, 238-239, VPL.2000.0003.1824-1825.

¹¹³¹ Exhibit RC0591 Mr Black diary, 13 April 2006, 135, RCMP1.0098.0001.0001 @.0135-.0136.

¹¹³² Exhibit RC0281 ICR3838 (026), 13 April 2006, 240, VPL.2000.0003.1826.

¹¹³³ Exhibit RC0281 ICR3838 (027), 18 April 2006, 248, VPL.2000.0003.1834.

¹¹³⁴ Exhibit RC0272 Commander Stuart Bateson diary, 19 April 2006, 113, VPL.0005.0058.0233 @.0345.

¹¹³⁵ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 19 April 2006, 198, VPL.0100.0073.0076_R1S @.0273.

¹¹³⁶ Exhibit RC0312 Mr Gavan Ryan diary, 19 April 2006, 60, VPL.0005.0120.0187 @.0246.

¹¹³⁷ Exhibit RC0292 Mr Sandy White diary, 19 April 2006, 29, VPL.0100.0096.0157 @.0185.

*Request for HS to speak to Thomas re truthfulness of statements being made by same.*¹¹³⁸

909. There is no record of a communication between Ms Gobbo or any of the SDU members during the day about this plan, and perhaps too coincidentally, at 6:15pm Ms Gobbo contacted Mr Peter Smith and 'suggested seeing transcripts of Thomas' I/Vs would assist in talking to him'.¹¹³⁹ It seems most likely that the idea of showing Ms Gobbo the transcripts with a view to her convincing Mr Thomas to assist police, had been the subject of discussion between her and a police officer before then, although no note of such discussion has been identified.
910. Rather than providing the transcripts to Ms Gobbo or to her instructing solicitor, Mr Valos, for them to retain and discuss with their client, as would be the usual course, the plan was to provide the transcripts to Ms Gobbo's SDU handlers, and permit her to read them but not retain them. Obviously, Ms Gobbo would not be able to reveal to Mr Thomas that she had read them.
911. Mr O'Brien was asked during his evidence if he saw any problem with this plan. He initially said that it would have been a matter for Mr Ryan and Mr Bateson who had carriage of the Thomas investigation. When pressed he acknowledged there was a problem given Ms Gobbo was a human source for Victoria Police who Mr Thomas perceived to be his lawyer. Mr O'Brien accepted that the inference to be drawn from their not having made this request overtly of Mr Valos, the solicitor on the record, as would be usual, was that the Purana Taskforce wanted Ms Gobbo to influence Mr Thomas to co-operate and change his story in some way.¹¹⁴⁰
912. It was put to Mr O'Brien that he was using and tasking Ms Gobbo as a human source in her capacity as a lawyer. He responded, 'No, I was using her as an informer'. When it was further put to Mr O'Brien that by involving the SDU, they meant to prevent discovery of Ms Gobbo's role he responded that these events were all discoverable through the court process. He then agreed that would only occur if those issuing a subpoena already knew the extraordinary fact that Mr Thomas' lawyer was a human source, and if there had have been a subpoena issued that happened to cover the matter there would have been a PII claim and vigorous opposition.¹¹⁴¹ It is submitted that the more likely approach would be that the notes would simply not have been provided.
913. Mr Ryan told the Commission he did not recall this occurring.¹¹⁴²
914. Mr Bateson told the Commission that it had been Mr O'Brien's idea to have Ms Gobbo speak with Mr Thomas. He said that following this meeting Mr O'Brien met with the SDU and provided the transcripts to them, as they were shortly to meet with Ms Gobbo.¹¹⁴³

¹¹³⁸ Exhibit RC0284 SML3838, 19 April 2006, 27, VPL.2000.0001.9447 @.9473.

¹¹³⁹ Exhibit RC0281 ICR3838 (028), 19 April 2006, 252, VPL.2000.0003.1838.

¹¹⁴⁰ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5659-5661, RC_MPI_05Sep19_provisional.

¹¹⁴¹ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5661, RC_MPI_05Sep19_provisional.

¹¹⁴² Transcript of Mr Gavan Ryan, 13 August 2019, 4456, TRN.2019.08.13.01.C.

¹¹⁴³ Transcript of Commander Stuart Bateson, 21 November 2019, 9738-9739, TRN.2019.11.21.01.C.

915. On 20 April 2006, Ms Gobbo met with Mr Sandy White, Mr Peter Smith and Mr Green. This was the meeting referred to elsewhere in these submissions, in which Ms Gobbo was asked about the ethics of her representing Mr Cooper upon his arrest, whereupon she confirmed, 'The general ethics of all of this is fucked'.¹¹⁴⁴ It is submitted that a similar description might be applied to the process whereby Ms Gobbo was used as an agent of Victoria Police to persuade Mr Thomas to assist Purana in its investigations.
916. During that meeting Ms Gobbo was asked for her views as to why she thought there was a stalemate between Mr Thomas and the police. She was provided with the transcript to read.¹¹⁴⁵ All those present laughed out loud when Ms Gobbo read aloud part of the transcript in which Mr Bateson told Mr Thomas he believed Ms Gobbo to be honest, and Mr Thomas' having referred to his feeling that Ms Gobbo would rather assist the police than 'what's going on out there', meaning Carl Williams and others.¹¹⁴⁶ Later, Ms Gobbo commented again on the irony, and Mr Bateson not being able to tell Mr Thomas that she was the one that got Mr McGrath over the line.¹¹⁴⁷
917. There was discussion about the dilemma in having Ms Gobbo involved with Mr Thomas. It is evident that there was a vested interest for police in having her act for him, and the 'delicate balance' that needed to occur given concerns over her being compromised.¹¹⁴⁸
918. After further discussion about the basis upon which Purana were putting the case against Mr Thomas, Mr Peter Smith told Ms Gobbo that the Purana Taskforce would not deal with him unless he started 'telling more the truth'.¹¹⁴⁹ Shortly thereafter, Mr Sandy White said:

*MR SANDY WHITE: ... if anybody can get him to tell the truth it will be you. Now, is that in his own interests? We don't know enough about it. You would know a lot more about that.*¹¹⁵⁰

919. And further:

MR SANDY WHITE: ... don't read anything more not this than the fact that from an investigator's point of view, there is an opportunity to get the truth out of Thomas. Clearly they're not getting it now and [inaudible] is insufficient for them to even consider running any further with it but they need to explore it as

¹¹⁴⁴ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 272, VPL.0005.0097.0011 @.0282.

¹¹⁴⁵ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 107, VPL.0005.0097.0011 @.0107.

¹¹⁴⁶ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 149-150, VPL.0005.0097.0011 @.0159-.0160.

¹¹⁴⁷ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 167-170, VPL.0005.0097.0011 @.0177-.0180.

¹¹⁴⁸ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 152, VPL.0005.0097.0011 @.0162.

¹¹⁴⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 161, VPL.0005.0097.0011 @.0171.

¹¹⁵⁰ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 162, VPL.0005.0097.0011 @.0172.

far as they can and if you can help them to do that, all well and good [inaudible] McGrath [inaudible].¹¹⁵¹

920. Ms Gobbo said that she could not ‘tip him over the edge’ when the Purana Taskforce were wanting him to plead guilty to a double murder. She said when Mr Thomas considered the likely sentence he would receive, along with his being in danger for the rest of his life should he co-operate, he would likely take his chances in front of a jury. There was then discussion about the need for him to plead to offences that would give greater scope for a judge to give him a significantly lesser sentence in order to make his co-operation worthwhile.¹¹⁵²
921. Mr Peter Smith expressed the view that Ms Gobbo needed to speak with Mr Bateson about the matter, following which Mr Sandy White questioned how much longer Mr Bateson would want Ms Gobbo involved in the process after she had spoken with Mr Thomas. Subsequently, Ms Gobbo was told that Mr Bateson would contact her the next day.¹¹⁵³
922. Mr Bateson’s evidence to the Commission was that the transcripts were to be provided to Ms Gobbo in her capacity as Mr Thomas’ lawyer, as opposed to using her in her capacity as a human source.¹¹⁵⁴

923. On the evidence, it is open to the Commissioner to reject Mr Bateson’s evidence that the transcripts were to be provided to Ms Gobbo in her capacity as Mr Thomas’ lawyer. This is so because:

- 923.1. **he had referred to her as ‘3838’ in his diary entry when discussing this plan**
- 923.2. **he was aware that the transcripts were to be provided to Ms Gobbo through her handlers at the SDU¹¹⁵⁵**
- 923.3. **Mr Thomas had a solicitor on the record, Mr Valos, who was not made aware that this was occurring. In this regard, it is also open to reject Mr Bateson’s evidence that he was not sure whether Mr Valos was involved at this stage¹¹⁵⁶**
- 923.4. **Ms Gobbo was not provided the transcripts to take with her, and Mr Thomas was not to be made aware that she had been provided the transcripts.**

¹¹⁵¹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 163, VPL.0005.0097.0011 @0173.

¹¹⁵² Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 164-165, VPL.0005.0097.0011 @.0174-.0175.

¹¹⁵³ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 165, 175, VPL.0005.0097.0011 @.0175, 0185; Exhibit RC0281 ICR3838 (028), 20 April 2006, 255, VPL.2000.0003.1841.

¹¹⁵⁴ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 14-15 [87], VPL.0014.0027.0001_R1 @.0014-.0015; Transcript of Commander Stuart Bateson, 21 November 2019, 9735-9736, TRN.2019.11.21.01.C.

¹¹⁵⁵ Transcript of Commander Stuart Bateson, 21 November 2019, 9736-9739, TRN.2019.11.21.01.C.

¹¹⁵⁶ Transcript of Commander Stuart Bateson, 21 November 2019, 9736-9738, TRN.2019.11.21.01.C.

21 April 2006 – Ms Gobbo Called before Justice King

924. The following day, an issue arose when the OPP discovered, and Justice King was made aware, of a letter written by Solicitor 2 to Corrections Victoria seeking permission for a joint meeting between Solicitor 2, Carl Williams, Ms Gobbo, and Mr Thomas.
925. At 3:54pm Ms Gobbo reported to Mr Peter Smith that Justice King had summoned Ms Gobbo and Solicitor 2 to court to explain their actions in seeking a joint meeting with Messrs Williams and Thomas, for whom, as far as Justice King was aware, neither of them were acting. Mr Peter Smith immediately contacted Mr O'Brien.¹¹⁵⁷ The transcript of the hearing that followed reveals, amongst other matters, Ms Gobbo acknowledging her conflict in acting for Mr Thomas, indicating to Justice King that she was not his counsel in relation to his upcoming trial and that she was not intending to have a joint conference with Messrs Williams and Thomas and Solicitor 2 in relation to that trial.¹¹⁵⁸
926. At 4:45pm, Mr Bateson returned to the office. Presumably, Mr O'Brien informed had him of the issue arising before Justice King. He rang and spoke with Mr Horgan.¹¹⁵⁹ Mr Bateson recorded in his diary:
- Enquiries re court hearing involving Solicitor 2 and Nicola Gobbo re conflict of interest*¹¹⁶⁰
927. At 5:05pm, Ms Gobbo rang Mr Peter Smith and told him what had occurred, and said she wanted Mr Bateson to tell Ms Anscombe at the OPP that she (Ms Gobbo) was aware of the plea negotiations in relation to Mr Thomas.
928. At 5:20pm, Mr Peter Smith spoke with Mr Bateson, who indicated he had just spoken to Mr Horgan about what had occurred at court. Mr Peter Smith discussed Ms Gobbo's request, and Mr Bateson indicated that Ms Anscombe could not be trusted not to gossip about the matter and likewise in relation to Mr Horgan 'as he is not totally aware of HS situation re this'.¹¹⁶¹ The nature of Mr Horgan's awareness as to Ms Gobbo's involvement with Mr Thomas at that point in time is not clear. It is clear that neither he, nor anyone else at the OPP, was told that Ms Gobbo was a human source being utilised to assist Purana Taskforce investigations.
929. Mr Peter Smith and Mr Bateson decided that Mr Bateson should not talk further with Mr Horgan about the incident, but that Mr Bateson would speak further with 'HS' in relation to matters arising from her review of the transcripts the previous night.¹¹⁶²

¹¹⁵⁷ Exhibit RC0281 ICR3838 (028), 21 April 2006, 257-258, VPL.2000.0003.1843-1844.

¹¹⁵⁸ RC0781, Transcript of Mention Hearing, *R v Carl Williams*, Justice King J, 21 April 2006, 8-10, RCMP1.0109.0001.0002 @.0008-.0010.

¹¹⁵⁹ Exhibit RC0272 Commander Stuart Bateson diary, 21 April 2006, 114 VPL.0005.0058.0233 @.0346; Exhibit RC0281 ICR3838 (028), 21 April 2006, 258, VPL.2000.0003.1844; Exhibit RC0486 Mr Peter Smith diary, 21 April 2006, 194-195, RCMP1.0053.0001.0008 @.0194-.0195.

¹¹⁶⁰ Exhibit RC0272 Commander Stuart Bateson diary, 21 April 2006, 114, VPL.0005.0058.0233 @.0346.

¹¹⁶¹ Exhibit RC0281 ICR3838 (028), 21 April 2006, 258, VPL.2000.0003.1844; Exhibit RC0486 Mr Peter Smith diary, 21 April 2006, 194-195, RCMP1.0053.0001.0008 @.0194-.0195.

¹¹⁶² Exhibit RC0281 ICR3838 (028), 21 April 2006, 258, VPL.2000.0003.1844; Exhibit RC0486 Mr Peter Smith diary, 21 April 2006, 194-195, RCMP1.0053.0001.0008 @.0194-.0195.

930. At approximately 6:30pm Mr Bateson rang and spoke to Ms Gobbo. She told him that Mr Thomas might be interested in a plea deal.
931. Ms Gobbo recorded in her court book discussion with Mr Bateson about the circumstances of Mr Thomas' involvement and the possibility of a plea to one charge of murder only.¹¹⁶³
932. Mr Bateson recorded in his diary:
- S/T 3838 re Thomas possibly pleading guilty and giving evidence.*¹¹⁶⁴
933. This entry followed immediately upon his entry referred to above at 4:45pm in which Mr Bateson had referred to Ms Gobbo by name.
934. Mr Bateson claimed in his evidence that he referred to Ms Gobbo by her human source number on a number of occasions by mistake.¹¹⁶⁵

935. **On the evidence, it is open to the Commissioner to reject Mr Bateson's evidence that he referred to Ms Gobbo by her human source number on a number of occasions by mistake. This is so, because the instances in which Mr Bateson referred to Ms Gobbo by her registered source number, compared to his references to her by name demonstrates that it was not simply coincidental. Rather, it appears to have been a deliberate means of preventing discovery of Ms Gobbo's involvement with Mr Thomas and her assistance to police. Ms Gobbo was referred to by name in the previous entry because the entry recorded her public appearance in court. His reference to her by informer number in the very next entry, less than two hours later recorded her conduct as a human source.**

936. On 22 April 2006, Ms Gobbo conducted professional visits upon both Carl Williams and Mr Thomas.¹¹⁶⁶ She reported to Mr Peter Smith following the visit that Mr Thomas was in a bit of a mental slump, that he had declined the offer of psychiatric assistance and was very depressed.¹¹⁶⁷
937. On 23 April 2006, Ms Gobbo told Mr Peter Smith that Mr Thomas telephoned her requesting that she speak to Mr Lovitt. Mr Thomas wanted Mr Lovitt's assessment of the case against him, and whether he was 'fucked'. Ms Gobbo believed that this would be Mr Lovitt's view, and that Mr Thomas would co-operate if this occurred. She told Mr Peter Smith again that Mr Thomas was very depressed and needed a 'push to come on board totally'.¹¹⁶⁸

¹¹⁶³ Exhibit RC0273 Ms Nicola Gobbo court book, 21 April 2006, 15, MIN.0001.0014.0784, @.0798.

¹¹⁶⁴ Exhibit RC0272 Commander Stuart Bateson diary, 21 April 2006, 114, VPL.0005.0058.0233 @.0346.

¹¹⁶⁵ Transcript of Commander Stuart Bateson, 21 November 2019, 9736, TRN.2019.11.21.01.C.

¹¹⁶⁶ Exhibit RC0273 Ms Nicola Gobbo court book, 22 April 2006, 15 MIN.0001.0014.0784, .0799-.0800; Exhibit RC1574 Corrections register of prisoners visited by Ms Nicola Gobbo, 22 April 2006, 23, CNS.0001.0003.0037, @.0059.

¹¹⁶⁷ Exhibit RC0281 ICR3838 (028), 22 April 2006, 258, VPL.2000.0003.1844.

¹¹⁶⁸ Exhibit RC0281 ICR3838 (028), 23 April 2006, 261, VPL.2000.0003.1847.

938. In August 2006, in providing a memorandum to counsel who was to appear for Mr Thomas upon his plea, she stated that after Mr Lovitt had appeared for Mr Thomas on a *Basha* hearing ‘*he made it clear to Thomas he thought he would have real problems at trial, not because Andrews was a witness of amazing credibility, nor because he could say that much about Thomas, but due to the prejudice and risk of standing trial jointly with Carl Williams.*’¹¹⁶⁹
939. Mr Lovitt said that his view following his cross-examination of Mr Andrews was that whilst Mr Andrews was more articulate and intelligent than he had anticipated, he still strongly believed that Mr Thomas had a reasonable chance of being acquitted at trial. He said he had never contemplated advising Mr Thomas that he should consider pleading to murder or offering ‘a deal’. He said further that at no stage was he consulted or asked to speak with Mr Thomas, nor was he asked for his opinion about the strength of the case.¹¹⁷⁰
940. Mr Lovitt said that later, after he learned that Mr Thomas had agreed to co-operate, he heard on the grapevine that he had told Mr Thomas he was without a chance in defending the charges. He said this angered him as it was a lie. He thought at the time that his instructing solicitor, Mr Valos, had said this to explain why Mr Thomas had agreed to assist police.¹¹⁷¹

Thomas Becomes a Purana Witness

June to July 2006 – Mr Thomas Agrees to Plead Guilty and Give Evidence

941. Following the earlier tasking by Ms Gobbo in relation to Mr Thomas, she continued to provide police with information aimed at assisting police to successfully convince Mr Thomas to co-operate.
942. On 5 May 2006, Ms Gobbo told Mr Peter Smith that if Mr Thomas was aware that Mr Cooper and ██████████ were assisting police, then he would do the same. She suggested that Mr Bateson speak to Mr Thomas as soon as possible, and that Mr Thomas should also be told that he could not speak with her. Ms Gobbo believed that Mr Thomas had been hesitating for family reasons.¹¹⁷² On 9 May 2006 Ms Gobbo advised that she had spoken with Mr Thomas during the day and that the Purana taskforce should speak to him. Mr O’Brien was advised.¹¹⁷³
943. On 16 May 2006, Ms Gobbo advised Mr Peter Smith that she was about to make an offer for a plea of guilty on behalf of Mr Thomas and she needed to speak with Mr Bateson, however the following day she reported that she had spoken to Mr Bateson and the matter was on hold for the time being.¹¹⁷⁴ Mr Bateson’s day book indicates he was on leave and no conversation was recorded.¹¹⁷⁵ About a week later on 22 May 2006, Ms Gobbo reported to Mr

¹¹⁶⁹ Exhibit RC1740 Memorandum from Ms Nicola Gobbo to Mr Duncan Allen, 12 August 2006, 5, MIN.5000.0002.4494, @.4498.

¹¹⁷⁰ Exhibit RC0783 Statement of Mr Colin Lovitt, 14 November 2019, 4-5 COM.0095.0001.0001 @.0004-.0005.

¹¹⁷¹ Exhibit RC0783 Statement of Mr Colin Lovitt, 14 November 2019, 5, COM.0095.0001.0001 @.0005.

¹¹⁷² Exhibit RC0281 ICR3838 (031), 5 May 2006, 287, VPL.2000.0003.1873.

¹¹⁷³ Exhibit RC0281 ICR3838 (031), 9 May 2006, 293, VPL.2000.0003.1879.

¹¹⁷⁴ Exhibit RC0281 ICR3838 (032), 16-17 May 2006, 300-301, VPL.2000.0003.1886-1887.

¹¹⁷⁵ Exhibit RC0272 Commander Stuart Bateson diary, 16-20 May 2006, 122, VPL.0005.0058.0233 @.0354.

Peter Smith that she had spoken with Mr Thomas who had heard that Mr Cooper was co-operating with police.¹¹⁷⁶

944. On 14 June 2006, she told the police similarly that Mr Thomas had heard that Mr Cooper had assisted police.¹¹⁷⁷
945. Between mid-June 2006 until 22 July 2006, Mr O'Brien was away from the office, either on recreation leave or doing a course in New South Wales. Mr Ryan was acting as the OIC of Purana in his stead. During this period of time Mr Thomas agreed to plead guilty, then following that to become a witness for the prosecution.
946. On 15 June 2006, Mr Ryan told Mr Bateson that Mr Thomas wished to see him to 'tell all'.¹¹⁷⁸ The following day, on 16 June 2006, Mr Bateson and Mr Kerley met with Mr Thomas in prison.¹¹⁷⁹
947. On 16 June 2006, Mr Bateson and Ms Kerley visited Mr Thomas in custody. Mr Thomas said he was willing to plead guilty, and that he wanted the police to arrange for the fraud charges against Mr Thomas' personal partner to be withdrawn. Mr Bateson told him that the only person who could withdraw those charges was the DPP, and that the police would not recommend that unless that had valuable evidence from him. Mr Thomas was still hesitant to give evidence. He indicated that he was willing to plead and to provide information but he did not want to give evidence.¹¹⁸⁰ In response to offers from Mr Thomas to provide information, Mr Bateson said, 'we don't need your intelligence. We need your evidence'.¹¹⁸¹
948. During the conversation, Mr Thomas said he had not told his solicitors about the police visit, commenting that whilst Mr Valos was a lovely bloke, he told Ms Gobbo everything. Mr Thomas went on, 'And I just don't feel safe with Nicola cos', however not explaining why that was.¹¹⁸²
949. It is noted that Ms Gobbo had previously acted for and recently advised Mr Thomas' personal partner in relation to those fraud charges.¹¹⁸³
950. On 19 June 2006, Ms Gobbo told Mr Peter Smith that Mr Thomas was reporting a loss of faith in his barrister, Mr Lovitt, saying that he could not fund a trial, could not get legal aid and he wanted to plead guilty. Ms Gobbo urged that investigators should speak with Mr Thomas before he went to court the following week. Mr Ryan was advised who indicated they had

¹¹⁷⁶ Exhibit RC0281 ICR3838 (032), 22 May 2006, 305, VPL.2000.0002.1891.

¹¹⁷⁷ Exhibit RC0281 ICR3838 (035), 14 June 2006, 329, VPL.2000.0003.1915.

¹¹⁷⁸ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 15 [89],

VPL.0014.0027.0001_R1 @.0015; RC0252 Purana Chronology prepared by Commander Stuart Bateson, 15 June 2006, 30, VPL.0015.0001.0409 @.0438; Exhibit RC0272 Commander Stuart Bateson diary, 15 June 2006, 122, VPL.0005.0058.0233 @.0354.

¹¹⁷⁹ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 15 June 2006, 30, VPL.0015.0001.0409 @.0438; Exhibit RC0272 Commander Stuart Bateson diary, 15 June 2006, 122, VPL.0005.0058.0233 @.0354.

¹¹⁸⁰ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 10, VPL.0005.0062.0792 @.0801.

¹¹⁸¹ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 7, VPL.0005.0062.0792 @.0798.

¹¹⁸² Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 12-13, VPL.0005.0062.0792 @.0803-.0804.

¹¹⁸³ Exhibit RC1568 Ms Nicola Gobbo fee book, 9 May 2006, 96, MIN.5000.7000.0001 @.0096.

already spoken with Mr Thomas about such matters.¹¹⁸⁴ Mr Peter Smith had conveyed this information to Mr Ryan. It could be inferred that Ms Gobbo did not want Mr Thomas to plead guilty before investigators had extracted an undertaking from him that he would to give evidence.

951. On 21 June 2006, Ms Gobbo reported to Mr Peter Smith that she had just spoken with Mr Thomas who told her he wanted to 'sign statements for Purana'. Ms Gobbo said she would ring Mr Bateson which she then did.

952. On 22 June 2006, Mr Bateson and Ms Kerley spoke with Mr Thomas who confirmed he would sign statements.¹¹⁸⁵ Mr Bateson had [REDACTED] the meeting with Mr Thomas that day, which indicates that:

- throughout, Mr Thomas was clearly weighing up whether the decision to become a witness, given the risks such a course entailed, including to his life, would be worth it¹¹⁸⁶
- when Mr Thomas referred to pleading, Mr Bateson referred to Mr Lovitt appearing on the plea for him¹¹⁸⁷
- Mr Bateson asked Mr Thomas why he rang Ms Gobbo when he had previously said he was worried about her, with Mr Bateson indicating he was happy that she was called. Mr Thomas responded that he trusted her and had warned her (it seems that Mr Thomas' concern was about the risk to Ms Gobbo of being associated with him)¹¹⁸⁸
- Mr Thomas said that Ms Gobbo had told him to tell the police everything¹¹⁸⁹
- in explaining the process for obtaining a sentencing recommendation, Mr Bateson referred to Ms Gobbo having discussions with the prosecution¹¹⁹⁰
- Mr Thomas indicated that Ms Gobbo had called he and Carl Williams on the morning of the Moran murder to tell them Moran had been shot.¹¹⁹¹

953. Towards the end of the conversation the following conversation took place about Mr Thomas' representation:

MS KERLEY: Yeah, no, no, no I'm sort of following you, you talk in riddles sometimes that's the thing.

¹¹⁸⁴ Exhibit RC0281 ICR3838 (036), 19 June 2006, 336, VPL.2000.0003.1922.

¹¹⁸⁵ Exhibit RC0272 Commander Stuart Bateson day book, 22 June 2006, 128, VPL.0005.0058.0233 @.0360.

¹¹⁸⁶ For example, Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 2, 5-6, 13, VPL.0005.0062.0792 @.0793, .0796-0797, .0804.

¹¹⁸⁷ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 2, VPL.0005.0062.0792 @.0793.

¹¹⁸⁸ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 3, VPL.0005.0062.0792 @.0794.

¹¹⁸⁹ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 16, VPL.0005.0062.0792 @.0807.

¹¹⁹⁰ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 21, VPL.0005.0062.0792 @.0812.

¹¹⁹¹ Exhibit RC0479 Transcript of meeting between Thomas, Stuart Bateson and Michelle Kerley, 16 June 2006, 27, VPL.0005.0062.0792 @.0818.

MR THOMAS: *Nicola will tell ya ...(inaudible)... that I'm pretty hard to understand.*

MR BATESON: *Sorry?*

MS KERLEY: *We don't need Nicola to tell us that. You talk in riddles.*

MR THOMAS: *No Nicola will tell ya, Nicola understands me.*

MR BATESON: *Mm.*

MR THOMAS: *Because I'm worried if I'm going to get shafted.*

MR BATESON: *Are you happy if I talk to Nicola about this?*

MR THOMAS: *Yeah, yeah, um, yeah. Do ya reckon that she'll say anything like if youse have had.*

MR BATESON: *Look, to be honest, I think Nicola is, um, a very ...*

MR THOMAS: *...(inaudible)...*

MR BATESON: *... a very honest barrister.*

MR THOMAS: *No talk or say something to anybody.*

MR BATESON: *No I think that she'll do the right thing.*

MR THOMAS: *That's why I want her because she knows what I'm all about, she understands me you know Nicola knew all this.*

MR BATESON: *I got no problems with Nicola.*

MR THOMAS: *Yeah. Nicola knows a bit of it ya know she's not stupid.*

MR BATESON: *She's, ya know, she's good I think you can trust her.*

MR THOMAS: *Is that alright?*

MR BATESON: *Yeah.*

954. In a subsequent meeting involving Messrs Overland, Grant, and Bateson it was resolved that Mr Thomas' account of the Moran/Barbaro murder was not accepted as truthful.¹¹⁹²
955. Following that meeting, Mr Bateson reported to Ms Gobbo that there was an issue in Mr Thomas' account in that he maintained that he had tried to stop the Moran murder. He said he would speak to the DPP and get back to her.¹¹⁹³
956. The next day, 23 June 2006, Mr Bateson attended a meeting at the OPP with Messrs Horgan and Tinney. It was decided that there was no interest in

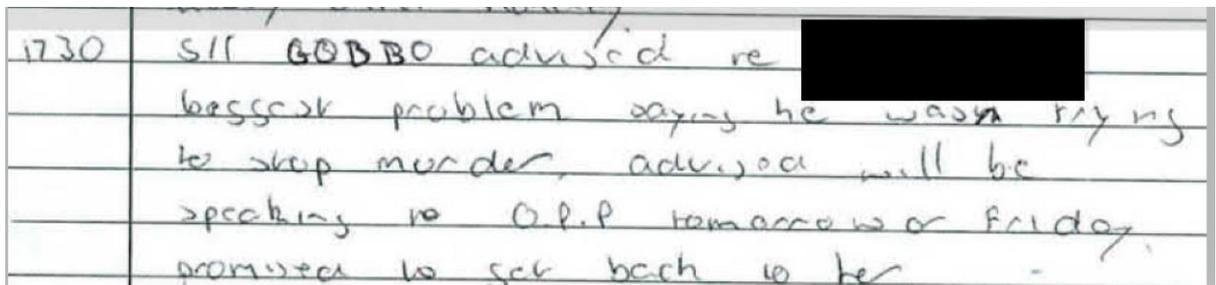
¹¹⁹² Exhibit RC0272 Commander Stuart Bateson day book, 22 June 2006, 128, VPL.0005.0058.0233 @.0360.

¹¹⁹³ Exhibit RC0272 Commander Stuart Bateson day book, 22 June 2006, 128, VPL.0005.0058.0233 @.0360.

Mr Thomas' evidence as to the Moran/Barbaro murders, however he would be entitled to a discount should he plead guilty and give evidence in other matters. Mr Bateson advised Ms Gobbo of these discussions and asked her to speak further with Mr Horgan.¹¹⁹⁴ Ms Gobbo reported to Mr Peter Smith following this that according to Mr Bateson, it would take Purana weeks to take the statements. Ms Gobbo indicated she would visit him in custody the following Monday.¹¹⁹⁵

957. It is convenient here to note that:

- on 21 June 2006, having received contact from Ms Gobbo indicating that Mr Thomas wished to sign statements he referred in his day book entry to her not by her name, and not by her registered number, but as 'legal counsel'¹¹⁹⁶
- on 23 June 2006, following the meeting with Mr Horgan, Mr Bateson told Ms Gobbo she should speak further with Mr Horgan about the plea by Mr Thomas. His diary entry included her full name, 'Nicola Gobbo'. Mr Horgan was clearly aware of her representation of Mr Thomas by that time
- Mr Bateson's entry on 22 June 2006 is interesting. He has written simply 'GOBBO', which appears to be written over something underneath, likely '3838', or at least the beginnings of that number. Further, the word 'GOBBO' is in capitals and absent her first name, unlike other entries in which her first name appears before and after this entry. This would indicate that Mr Bateson distinguished between Ms Gobbo's name and number advisedly.



958. On 24 June 2006, Ms Gobbo told Mr Peter Smith she was hoping to find something in Mr Thomas' statements that would put her in conflict with other clients so she would not be able to appear for him in court.¹¹⁹⁷

959. On 26 June 2006, Ms Gobbo reported on a visit to Mr Thomas, along with instructing solicitor, Mr Valos. She said that Mr Valos had tried to talk Mr Thomas out of pleading guilty. Ms Gobbo said she was to meet with the

¹¹⁹⁴ Exhibit RC0272 Commander Stuart Bateson day book, 22 June 2006, 128-129, VPL.0005.0058.0233 @.0360-.0370.

¹¹⁹⁵ Exhibit RC0281 ICR3838 (036), 23 June 2006, 340-341, VPL.2000.0003.1926-1927.

¹¹⁹⁶ Exhibit RC0281 ICR3838 (036), 21 June 2006, 338, VPL.2000.0003.1924; Exhibit RC0272 Commander Stuart Bateson day book, 21 June 2006, 127, VPL.0005.0058.0233 @.0359; Exhibit RC0281 ICR3838 (036), 22 June 2006, 340, VPL.2000.0003.1926.

¹¹⁹⁷ Exhibit RC0281 ICR3838 (036), 24 June 2006, 342, VPL.2000.0003.1928.

DPP the following week to arrange the basis of the plea, following which he would make the statements.¹¹⁹⁸

960. On 27 June 2006, Ms Gobbo and Mr Valos met with Messrs Horgan and Tinney and agreed that:
- Mr Thomas would plead guilty to one count of murder, that of Jason Moran, on the basis that he was an accessory before the fact
 - his role was limited to 'counselling and procuring', in that he helped to facilitate it and encouraged it, but was not there at the time
 - the Crown would not allege circumstances of aggravation of the kind alleged by Mr Andrews in his statement
 - it had not been Mr Thomas' idea and he was not in control, so even when Mr Thomas had heard where it was going to happen and went to Mr Andrews to try and stop it happening in front of children, he could do nothing
 - the prosecution would say a 'Goussis style' sentence of approximately 14 years' imprisonment would not be outside the range bearing in mind his plea of guilty, limited role and that if he were to run a trial and be found guilty he would be sentenced to around 18 to 20 years imprisonment to serve.¹¹⁹⁹
961. It is not known whether the prosecution questioned whether Ms Gobbo had any conflict during their discussions with her. It is clear that the prosecutors were not told the extent of her conflict, in that Ms Gobbo had been involved in the statement process for Mr McGrath, a prime witness against Mr Thomas. Nor were they told about her role as a human source, who had been tasked for the Purana Taskforce to assist them in 'rolling' Mr Thomas.
962. On 29 June 2006, Mr Thomas was arraigned before Justice Eames in the Supreme Court. He entered a plea of guilty to the murder of Jason Moran. Ms Gobbo appeared on his behalf. Mr Horgan appeared for the prosecution. The matter was adjourned to a date to be fixed for a plea before Justice King. A suppression order was made as the trial of Carl Williams was due to commence on 3 July 2006. Purana Taskforce members present included Messrs Ryan, Bateson, L'Estrange and Ms Kerley. That afternoon, after court, in apparent contravention of the suppression orders, she reported details of the hearing to her handlers.¹²⁰⁰
963. After the hearing Mr Bateson spoke to Mr Thomas in the cells in the presence of Ms Gobbo, Mr Valos and Ms Kerley. Mr Thomas said he would make statements. Mr Thomas also indicated that Carl Williams and Milad Mokbel were of the belief that Ms Gobbo was working with the police and

¹¹⁹⁸ Exhibit RC0281 ICR3838 (036), 26 June 2006, 343, VPL.2000.0003.1929.

¹¹⁹⁹ Exhibit RC1740 Memorandum from Ms Nicola Gobbo to Mr Duncan Allen, 12 August 2006, 8-9, MIN.5000.0002.4494, @.4501-.4502.

¹²⁰⁰ Exhibit RC0281 ICR3838 (036), 29 June 2006, 346, VPL.2000.0003.1932.

she needed to be careful. Mr Bateson informed Mr Ryan of the possible threat to Ms Gobbo.¹²⁰¹

964. On 30 June 2006, Ms Gobbo went on an overseas holiday.¹²⁰² It is apparent that she was following events. On 3 July 2006, the trial of Carl Williams was adjourned to the following month due to issues with counsel availability. Following this Mr Thomas proceeded to make statements to the police.¹²⁰³ On 4 July 2006, Ms Gobbo reported that Mr Horgan had stated in open court his expectation that Mr Thomas would give evidence in the trial of Mr Williams. She said as a result 'people' were angry with her. Following this was discussion in relation to what could be done so that others would not become aware of her involvement in Mr Thomas' co-operation with police.¹²⁰⁴

Purana Taskforce Statement Taking Process

965. It is apparent that it was the practice of several members of the Purana Taskforce, when taking a statement from a significant witness who would be liable to a challenge upon their credibility, would be to:

- take the statement on a computer and save it
- if there were any changes or additions to the statement, to amend the electronic version of the original document and save it under the same filename
- even where versions or drafts of the statement had been printed or emailed prior to signing, to maintain that there were no drafts of such statements so that there would be no disclosure of earlier versions to the defence.

966. Consistent with this was:

- Mr Bateson's evidence in relation to the statements of Mr McGrath. His evidence to the Commission was that changes made to Mr McGrath's statement following the involvement of Ms Gobbo (which itself was not disclosed) were of a minor nature. The Commission discovered an earlier electronic version of one of those statements which indicated the changes were more substantial, including matters making the case of murder against Carl Williams a stronger one¹²⁰⁵
- Mr Bateson's evidence of a practice of destroying statements which were not the final copy¹²⁰⁶

¹²⁰¹ Exhibit RC1740 Memorandum from Ms Nicola Gobbo to Mr Duncan Allen, 12 August 2006, 9, MIN.5000.0002.4494, @.4502; Exhibit RC1568 Ms Nicola Gobbo fee book, 21 September 2006, 99, MIN.5000.7000.0001 @.0099; Exhibit RC0281 ICR3838 (036), 29 June 2006, 346, VPL.2000.0003.1932; Exhibit RC0272 Commander Stuart Bateson diary, 29 June 2006, 131, VPL.0005.0058.0233 @.0363.

¹²⁰² Exhibit RC0281 ICR3838 (037), 30 June 2006, 349, VPL.2000.0003.1935; Exhibit RC0272 Commander Stuart Bateson diary, 30 June 2006, 132, VPL.0005.0058.0233 @.0364.

¹²⁰³ Exhibit RC1740 Memorandum from Ms Nicola Gobbo to Mr Duncan Allen, 12 August 2006, 9, MIN.5000.0002.4494, @.4502.

¹²⁰⁴ Exhibit RC0281 ICR3838 (037), 4 July 2006, 350, VPL.2000.0003.1936.

¹²⁰⁵ Transcript of Commander Stuart Bateson, 21 November 2019, 9726-9728, TRN.2019.11.21.01.C; 22 November 2019, 9814-9823, TRN.2019.11.22.01.C.

¹²⁰⁶ Transcript of Commander Stuart Bateson, 22 November 2019, 9856, TRN.2019.11.22.01.C.

- Mr Flynn's evidence to the Commission that he and the Purana Taskforce were well aware that Mr Cooper's credibility was going to be a fact in issue, a deliberate decision was made early on not to create drafts, and that there were multiple changes to statements as they progressed¹²⁰⁷
- Mr Flynn's evidence that he had spoken to Messrs Ryan and Bateson and probably Mr O'Brien about this process¹²⁰⁸
- Mr Flynn's evidence that he did not consider versions of Mr Cooper's statements printed and shown to Ms Gobbo in May 2006 prior to their signing in August 2006 as drafts, as they may have been copies of the final statement¹²⁰⁹
- Mr Buick's evidence to the Commission of his belief that there were no drafts of Mr Thomas' statement in relation to the murders of [REDACTED] and Paul Kallipolitis.¹²¹⁰

July 2006 – Gobbo Involvement in Thomas Statement Process

967. Over a number of weeks from 6 July 2006, Mr Bateson was involved in co-ordinating the taking of statements from Mr Thomas. Mr Thomas was taken to a secure location, and various investigators dealing with the matters the subject of each statement were brought to Mr Thomas to take a statement.
968. As had occurred with Messrs McGrath and Cooper, Ms Gobbo became involved in this process. As had occurred with those witnesses, Ms Gobbo's involvement in the process was deliberately concealed not just from the prosecution and the defence lawyers, but also from the court.
969. On 7 July 2006, Ms Gobbo reported to Mr Peter Smith that Mr Thomas had indicated he wanted to see her before he signed statements.¹²¹¹ Presumably Ms Gobbo had received a communication from Mr Bateson to that effect. On 9 and 10 July 2006, Ms Gobbo told her handler of matters that ought to be asked of Mr Thomas. This was reported to Mr Ryan.¹²¹²
970. On 9 and 10 July 2006, the ICRs record that Ms Gobbo suggested to her handlers that Mr Bateson 'bring up the subject of money',¹²¹³ and that Mr Thomas 'will know about money and be able to explain finances of Carl Williams if I/V'ing member mentions appropriately.'¹²¹⁴ On 13 July 2006 Detectives Coghlan, Robinson and Chippindall were present whilst an 'assets' related statement was taken from Mr Thomas.¹²¹⁵
971. On the morning of 11 July 2006, Ms Gobbo returned from her holiday. That day she spoke with Mr Bateson, who expressed concern that Mr Thomas was '*not being totally truthful re murder matters*'. Repeating the process that had occurred with Mr McGrath in 2004, and more recently with Mr Cooper (on 14 May 2006) arrangements were made for Ms Gobbo to speak with Mr

¹²⁰⁷ Transcript of Mr Dale Flynn, 1 October 2019, 6942-6949, RC_MPI_01Oct19_provisional.

¹²⁰⁸ Transcript of Mr Dale Flynn, 1 October 2019, 6948, RC_MPI_01Oct19_provisional.

¹²⁰⁹ Transcript of Mr Dale Flynn, 3 October 2019, 6942-6949, RC_MPI_03Oct19_provisional.

¹²¹⁰ Transcript of Inspector Boris Buick, 30 October 2019, 8597, TRN.2019.10.30.01.C.

¹²¹¹ Exhibit RC0281 ICR3838 (037), 5 July 2006, 352, VPL.2000.0003.1938.

¹²¹² Exhibit RC0281 ICR3838 (037), 9-10 July 2006, 352, VPL.2000.0003.1938.

¹²¹³ Exhibit RC0281 ICR3838 (037), 9 July 2006, 352, VPL.2000.0003.1938.

¹²¹⁴ Exhibit RC0281 ICR3838 (037), 10 July 2006, 353, VPL.2000.0003.1939.

¹²¹⁵ Exhibit RC0786 Contact with Thomas document, 23 July 2006, 2, VPL.0100.0144.3588 @.3589.

Thomas on the morning of 13 July 2006. Ms Gobbo also spoke with Mr Bateson about the fact of her contact with Mr Thomas on the morning of the Jason Moran murder. She told her handler that she was supplying Mr Bateson with a phone bill to assist his investigation.¹²¹⁶

972. On 13 July 2006, Mr Bateson met with Ms Gobbo and facilitated a conference between she and Mr Thomas. They met for around 90 minutes. Following the meeting, Ms Gobbo reported to Mr Peter Smith that Mr Thomas was 'up to 80% truth now', although he had been dishonest about the murder of [REDACTED]. Ms Gobbo also reported having spoken with Carl Williams who asked her what was occurring with Mr Thomas. Ms Gobbo said she told Carl Williams that she did not know what he was doing.¹²¹⁷
973. On 15 July 2006, Ms Gobbo reported having spoken with Mr Bateson, and that the Purana Taskforce were now happy with Mr Thomas.¹²¹⁸
974. On 18 July 2006, Ms Gobbo met with Ms Kerley at St Kilda Road Police Station to read Mr Thomas' statements.¹²¹⁹ This arrangement had been made with Mr Bateson. Mr Bateson told the Commission it had occurred as Mr Thomas had asked for the statements to be shown to his lawyer,¹²²⁰ although there is no documented evidence of this request that has been provided to the Commission. On 19 and 20 July 2006, Mr Thomas signed numerous statements.
975. It was put to Mr Buick, who took a statement from Mr Thomas concerning the murder of Paul Kallipolitis, that ordinarily police would deal with the solicitor on the record, not the barrister, especially in relation to the provision of documents.

MS TITTENSOR: [Mr Thomas] has at least a solicitor on the record. Ordinarily investigators would have contact directly with the solicitor, would you accept that? They might have contact directly with a barrister but ordinarily if they're providing documentation it would be through a solicitor?

MR BUICK: In the ordinary course of events with many Homicide investigations I've been involved in yes, you deal with the solicitor. It was quite a unique scenario at Purana that Gobbo was so involved, indeed not just Purana, but so involved, hands-on herself. I never quite understood how that worked.

MS TITTENSOR: Might it have worked because it was known that she was assisting police and not assisting her, necessarily her clients?

MR BUICK: That's a possibility.

¹²¹⁶ Exhibit RC0281 ICR3838 (037), 11 July 2006, 353, VPL.2000.0003.1939; Exhibit RC0272 Commander Stuart Bateson diary, 11 July 2006, 136, VPL.0005.0058.0233 @.0368.

¹²¹⁷ Exhibit RC0281 ICR3838 (038), 13 July 2006, 358, VPL.2000.0003.1944.

¹²¹⁸ Exhibit RC0281 ICR3838 (038), 15 July 2006, 359, VPL.2000.0003.1945.

¹²¹⁹ Exhibit RC0281 ICR3838 (038), 18 July 2006, 360, VPL.2000.0003.1946; RC0252 Purana Chronology prepared by Commander Stuart Bateson, 15 July 2006, 33, VPL.0015.0001.0409 @.0441.

¹²²⁰ Transcript of Commander Stuart Bateson, 22 November 2019, 9849, TRN.2019.11.22.01.C.

976. Contemporaneous statements by Ms Gobbo suggested that her involvement in the review of these statements was without the knowledge of Mr Thomas or his instructing solicitor, and that it included amendments or alterations to those statements which were not disclosed to those against whom Mr Thomas became a witness:

- on 19 July 2006, she told her handler that she was impressed with Mr Thomas' statements including over 40 pages re trafficking and that she 'amended some slightly'¹²²¹ Further, at a Management meeting with Mr Dale Flynn, Mr Peter Smith was told that Ms Gobbo 'supplied a lot of details re Thomas' statements'¹²²²
- on 4 August 2008 during a meeting with Messrs Sandy White, Green and Wolf there was the following exchange:

MS GOBBO: I'm sure I gave it to you.

MR GREEN: Or we gave it to you to read and - - -

MS GOBBO: I edited it. I went to Purana secretly one night and edited all his statements. I corrected them. But no-one ever knows about that. That would never come out. Even Thomas doesn't know I did that.

MR GREEN: Mm.

MS GOBBO: He could never reveal it 'cause he doesn't know about it. And they were very good the way they did it because the detective that I did it with is not a witness so it can never come out with people just telling the truth.

MR GREEN: Yeah.

MS GOBBO: It was well thought out.

MR GREEN: Who thought that out?

MS GOBBO: I presume Jim O'Brien or maybe Mark did.

977. Mr Thomas became the primary witness against Mr Faruk Orman, who was charged with two matters following statements made by Thomas; the murder of Victor Peirce and the murder of Paul Kallipolitis.¹²²³ Mr Buick was involved in both those matters, including taking Mr Thomas' statement relating to the latter on 19 July 2006.

978. In his statement to the Commission dated 10 May 2019, Mr Buick said:

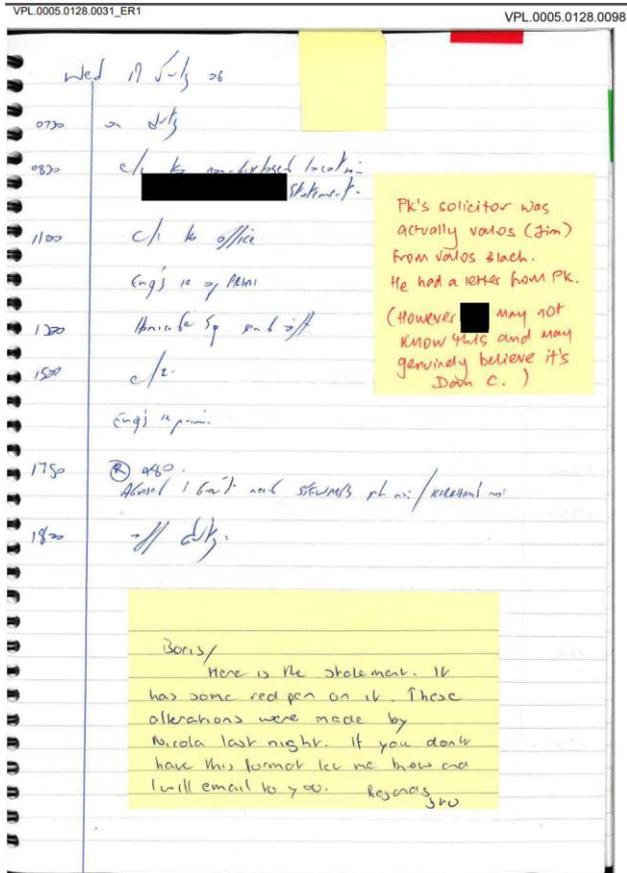
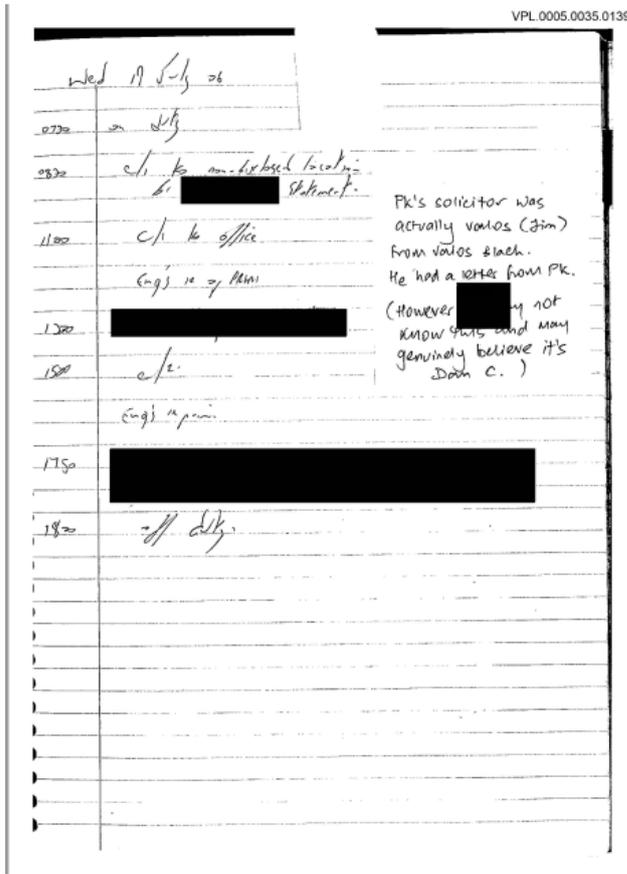
On 10 July 2006 I commenced obtaining a statement from (Mr Thomas) in relation to the 2000 murder of [REDACTED] and the 2002 murder of Paul Kallipolitis. This statement was continued over the 14th and 19th of July. On 19 July 2006 I have a note that the statements are being checked by Ms Gobbo. I did not engage directly with Ms Gobbo over this time.

¹²²¹ Exhibit RC0281 ICR3838 (038), 18 July 2006, 360, VPL.2000.0003.1946.

¹²²² Exhibit RC0281 ICR3838 (038), 19 July 2006, 361, VPL.2000.0003.1947.

¹²²³ Transcript of Inspector Boris Buick, 30 October 2019, 8594-8595, TRN.2019.10.30.01.C.

979. Depicted below are two versions of the same page from Mr Buick's day book from 19 July 2006:



980. The version on the top¹²²⁴ was produced to the Commission around the same time as Mr Buick's statement.
981. The version on the bottom¹²²⁵ was produced after the Commission called for the production of Mr Buick's diaries and day books for inspection, (along with those of various other police members) when it became apparent that many relevant diary entries were not being identified and produced in copies that were being provided to the Commission.
982. A post-it note with handwriting can be seen on the upper right-hand side of both versions, the second colour version showing it to be written in red pen. This is Ms Gobbo's handwriting and reads:

PK's solicitor was actually Valos (Jim) from Valos Black. He had a letter from PK. (However Thomas may not know this and may genuinely believe it's Dan C.)

983. At the time of his giving evidence to the Commission, Mr Buick did not realise this was Ms Gobbo's handwriting.¹²²⁶ However for reasons that will become apparent, he would have known this information to have been supplied by Ms Gobbo at the time.
984. It is not suggested that the Thomas statement was changed in this particular, however no draft Thomas statements, including those shown to and annotated by Ms Gobbo have been brought to the attention of the Commission, and so it is not possible to test Mr Bateson's recollection that any changes were grammatical only.¹²²⁷ Nonetheless, it seems that the information provided by Ms Gobbo concerning Mr Thomas' recollection was later followed up by detectives in the Kallipolitis investigation who executed a warrant upon the office of Mr Valos.¹²²⁸ [REDACTED]
985. Very concerningly, it is apparent that the initial version of Mr Buick's day book which was produced to the Commission appears to have had removed from it before copying, a post-it note on which Mr Bateson had written:¹²³⁰

Boris,

Here is the statement. It has some red pen on it. These alterations were made by Nicola last night. If you don't have this format let me know and I will email to you.

Regards,

Stu

¹²²⁴ Exhibit RC0649b Inspector Boris Buick day book, 19 July 2006, VPL.0005.0035.0136 @.0139.

¹²²⁵ Exhibit RC0649c Inspector Boris Buick day book, 19 July 2006, 68, VPL.0005.0128.0031 @.0098.

¹²²⁶ Transcript of Inspector Boris Buick, 30 October 2019, 8600-8607, TRN.2019.10.30.01.C.

¹²²⁷ Transcript of Commander Stuart Bateson, 21 November 2019, 9700, TRN.2019.11.21.01.C.

¹²²⁸ Transcript of Inspector Boris Buick, 30 October 2019, 8606-8607, TRN.2019.10.30.01.C.

¹²³⁰ Transcript of Commander Stuart Bateson, 22 November 2019, 9851, TRN.2019.11.22.01.C.

986. As indicated above, Mr Buick had noted in his statement to the Commission the 'checking' of statements by Ms Gobbo but failed to mention that she had made, or at least suggested, alterations.

987. On the evidence, it is open to the Commissioner to find that Mr Buick should have questioned Ms Gobbo's involvement in Mr Thomas' matter. That is so because:

987.1. in 2003 to 2004, he was an informant alongside Mr Bateson in the prosecutions of Messrs McGrath and Andrews and must have been aware of Ms Gobbo's representation of Mr McGrath

987.2. he had known that Ms Gobbo was a human source, whose information was being used to assist the Purana Taskforce, from around the time of the Posse arrests in April 2006.¹²³¹

988. Despite the above matters, Mr Buick said that he proceeded as though Ms Gobbo was simply Mr Thomas' barrister.¹²³² He did not see it as an issue that Ms Gobbo was a human source (for the Purana Taskforce) at the same time as representing Mr Thomas (in relation to Purana Taskforce matters).¹²³³

989. Following investigation by the Commission of Ms Gobbo's involvement in Mr Thomas' statement making process it became apparent that Ms Gobbo had met with Ms Kerley at St Kilda Road Police Station and she had spent over four hours 'reading' the statements, between 6:20pm and 10:30pm.¹²³⁴

990. Ms Kerley was asked to provide a statement and in it she said that Mr Bateson was in charge of the team and as such he would have been aware of Ms Gobbo's attendance, as she assumed would be Messrs Ryan, L'Estrange and Hatt¹²³⁵ She indicated that such statements were kept in hard copy in a locked draw for which she would have returned the key to Mr Bateson.¹²³⁶

991. Ms Kerley stated that she was confident that she would not have left Ms Gobbo alone with the statements, as she did not trust her. She did not recall Ms Gobbo writing on or marking up the statements in any way, she believes she would have prevented that.¹²³⁷ She was clearly wrong about this. Ms Kerley's diary entry of 18 July 2006 at 18:20 reads 'Nicola Gobbo (Thomas') Barrister @ office re read statements to 22:30' at which point Ms

¹²³¹ Transcript of Inspector Boris Buick, 30 October 2019, 8585, TRN.2019.10.30.01.C.

¹²³² Transcript of Inspector Boris Buick, 30 October 2019, 8588-8590, 8600-8601, TRN.2019.10.30.01.C.

¹²³³ Transcript of Inspector Boris Buick, 30 October 2019, 8594, TRN.2019.10.30.01.C.

¹²³⁴ Exhibit RC1417 Statement of Acting Senior Sergeant Michelle Kerley, 26 September 2019, 2 [7], VPL.0014.0062.0001 @.0002; Exhibit RC1551 Acting Senior Sergeant Michelle Kerley diary, 18 July 2006, 53, VPL.0005.0134.0001 @.0053.

¹²³⁵ Exhibit RC1417 Statement of Acting Senior Sergeant Michelle Kerley, 26 September 2019, 3 [14, 18], VPL.0014.0062.0001 @.0003.

¹²³⁶ Exhibit RC1417 Statement of Acting Senior Sergeant Michelle Kerley, 26 September 2019, 4 [26-27], 6 [42] VPL.0014.0062.0001 @.0004, .0006.

¹²³⁷ Exhibit RC1417 Statement of Acting Senior Sergeant Michelle Kerley, 26 September 2019, 4-5 [29-36], VPL.0014.0062.0001 @.0004-.0005.

Gobbo left the police station.¹²³⁸ An examination of the note reveals that the word 'read' had been written over another word, probably 'review'. It might be that Ms Kerley thought better of recording that Ms Gobbo had reviewed the statements in the circumstances, and that merely 'reading' sounded more benign. But on any view, Ms Gobbo was doing more than merely reading them.

992. This post-it note was significant for a number of reasons, including that:
- it gave credence to Ms Gobbo's contemporaneous claims to have made amendments to Mr Thomas' statements
 - it demonstrated that there were drafts of statements, in hard copy and electronic form, held within Purana, which were not disclosed to the defence¹²³⁹
 - it gave rise to concerns as to who removed the post-it note before copying the relevant page originally supplied to the Commission, and why that was done.
993. Mr Buick could not explain why the post-it note was not provided to the Commission, or why someone had removed it for photocopying. Nor could he say what Ms Gobbo's alterations were or what became of the statement with Ms Gobbo's red pen markings on it.¹²⁴⁰
994. Mr Buick agreed in his evidence that this note ought to have been disclosed to the defence, indicating he was not certain if had been.¹²⁴¹ One can be certain that it was not. Such disclosure would have inevitably led to questions from the defence about the alterations to Mr Thomas' statement and discovery of Ms Gobbo's involvement; questions which were never asked by the likes of Robert Richter QC.
995. Mr Bateson was unable to say what additions, changes or suggestions were made by Ms Gobbo in relation to any of the statements made by Mr Thomas, indicating that he was not aware of any of the copies shown to her being retained.¹²⁴² Mr Bateson said he recalled that most of the 'red pen things' were immaterial.¹²⁴³ He had previously maintained this in relation to Mr McGrath's statements prior to the discovery of drafts of those statements during the course of his evidence to the Commission which demonstrated otherwise.

28 July 2006 – Gobbo's Manipulation of Normal Process

996. On 28 July 2006, Ms Gobbo reported to Messrs Sandy White and Peter Smith on a conversation she had had with Mr Bateson about Mr Thomas' upcoming plea hearing, which had been moved to 4 August 2006. She was pressing for an indication of what the prosecution would say as to the value of the statements, and the level of discount he might receive. Mr Bateson indicated a difficulty as Mr Horgan had said he would only read the

¹²³⁸ Exhibit RC1551 Acting Senior Sergeant Michelle Kerley diary, 18 July 2006, 53, VPL.0005.0134.0001 @.0053.

¹²³⁹ Transcript of Inspector Boris Buick, 30 October 2019, 8597, TRN.2019.10.30.01.C.

¹²⁴⁰ Transcript of Inspector Boris Buick, 30 October 2019, 8598, 8600, TRN.2019.10.30.01.C.

¹²⁴¹ Transcript of Inspector Boris Buick, 30 October 2019, 8599, TRN.2019.10.30.01.C.

¹²⁴² Transcript of Commander Stuart Bateson, 22 November 2019, 9852, TRN.2019.11.22.01.C.

¹²⁴³ Transcript of Commander Stuart Bateson, 22 November 2019, 9855-9856, TRN.2019.11.22.01.C.

statements relating to the upcoming Carl Williams trial and did not want to read the others. Ms Gobbo told Mr Bateson that she wanted a copy of Mr Thomas' statements. He responded that he did not have a difficulty with this, but he did have difficulty with anybody knowing that she had the statements. Ms Gobbo continued in relation to the need to agree upon the value of Mr Thomas' evidence:

MS GOBBO: I said, "The reality is we need to come to an agreement on what you say his value is or what Gavan Ryan's prepared to say, 'cause if we disagree, I'm gunna cross-examine him and that would be very - - -"

MR PETER SMITH: So he'll - surely he'll come to an agreement?

MS PETER SMITH: very - well, we will - we have to 'cause otherwise it will be ugly.

MR PETER SMITH: Mm.

MS GOBBO: And Stuey's upset 'cause everything we're saying is on the transcript that some barrister is going to take apart down the track.¹²⁴⁴

997. Paradoxically, having worked with the police to influence Mr Thomas to the point of pleading guilty and co-operating, Ms Gobbo was now seemingly trying to ensure he received the best possible discount. To do so she essentially threatened police with the consequences of not bending to her demands. This was all a consequence of the decision by Ms Gobbo and the police to allow the abuse of her position as an officer of the court.

Mid-August 2006 – PII Issues in Williams Trial

998. On 14 August 2006, legal argument took place in the Williams trial before Justice King. Mr Bateson noted, amongst other matters, that Justice King had indicated that at some point the police would have to decide between prosecution and investigation, and that the police were required to hand over any material that demonstrated their witness is a liar. These statements related to a reluctance by police to hand over all statements which had been signed by those men given that some matters were the subject of ongoing investigations.
999. Later, Mr O'Brien spoke with Mr Overland in relation to 'PII issues' associated with the Carl Williams trial.¹²⁴⁵
1000. The following day, 15 August 2006, Messrs Overland, O'Brien, Bateson and Ms Kerley attended a meeting at the OPP with Messrs Coghlan, Horgan, Tinney and Ms Anscombe. There was discussion of PII issues related to the handing over of statements of Messrs Thomas and Andrews. There was

¹²⁴⁴ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 28 July 2006, 201-205, VPL.0005.0104.0440 @.0640-.0644.

¹²⁴⁵ Exhibit RC0272 Commander Stuart Bateson diary, 14 April 2006, 145, VPL.0005.0058.0233 @.0377; Exhibit RC0933 Mr James (Jim) O'Brien diary, 14 August 2006, 227, VPL.0100.0073.0076_R1S @.0302.

also discussion of a request for an adjournment to allow further consideration as to the relevance of a number of the statements.¹²⁴⁶

1001. Mr O'Brien continued to have involvement and awareness of matters concerning public interest immunity in the months following, including briefings with lawyers, reading of court transcript, and updating Mr Overland as to 'Thomas PII issues re statements'.¹²⁴⁷
1002. Messrs O'Brien and Bateson knew there was material relevant to those prosecutions upon which there might be a claim of PII, concerning police holdings about Ms Gobbo. Included in this was their involvement in her tasking as a human source in relation to Mr Thomas. There was no disclosure of these matters to either the OPP or to the police legal advisors. As Mr O'Brien conceded in his evidence to the Commission, there was never any intention of such disclosure, as 'in the normal course of events you wouldn't disclose an informer'.¹²⁴⁸ This was not the normal course of events.
1003. Mr O'Brien said that, unless Mr Overland had arranged for the lawyers to be instructed independently of the Purana Taskforce, he was also aware that the police legal advisors were not being instructed as to the issues associated with police holdings of relevant material relating to Ms Gobbo.¹²⁴⁹

1004. **On the evidence, it is open to the Commissioner to find that, knowing what they knew, Messrs Overland, O'Brien and Bateson were, at the very least, obliged to ensure that legal advice was obtained as to the need for disclosure of police holdings in relation to Ms Gobbo in the trial of Williams, and in the various trials of other persons whose prosecution relied upon evidence gathered as a result of her use by Victoria Police.**

August to September 2006 – Complaints by Carl Williams of Conflict of Interest

1005. In August 2006, Carl Williams' trial for the murder of Jason Moran was due to commence. Ms Gobbo was proposing to act for Mr Thomas in his forthcoming plea hearing. This was made known to Carl Williams who objected to Ms Gobbo's involvement.
1006. It serves to reflect upon the justification that many Victoria Police members have given as to the non-disclosure of Ms Gobbo's role as a lawyer for the likes of Messrs McGrath, Cooper and Thomas. That is, were her representation of those individuals known beyond the point of their agreeing to co-operate she would be in mortal danger. In this situation, whilst she might have falsely maintained that she had not been involved in Mr Thomas'

¹²⁴⁶ Exhibit RC0933 Mr James (Jim) O'Brien Diary, 14 August 2006, 227, VPL.0100.0073.0076 @.0302.

¹²⁴⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 18 August 2006, 230, VPL.0100.0073.0076 @.0305; Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 September 2006, 252, VPL.0100.0073.0076 @.0327; Exhibit RC0933 Mr James (Jim) O'Brien diary, 19 September 2006, 258, VPL.0100.0073.0076 @.0333; Exhibit RC0933 Mr James (Jim) O'Brien diary, 27 September 2006, 260, VPL.0100.0073.0076 @.0335.

¹²⁴⁸ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5708-5710, RC_MPI_05Sep19_provisional.

¹²⁴⁹ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5709-5710, RC_MPI_05Sep19_provisional.

decision to co-operate, she was willing to associate herself with Mr Thomas in circumstances that she would have known would have made Carl Williams displeased. He was someone at the time suspected of involvement, and likely known by her to have been involved, in multiple murders.

1007. Upon becoming aware of Ms Gobbo's intentions, Carl Williams made vociferous complaints about Ms Gobbo having conflicts of interest to the trial judge, Justice King, to the Victorian Bar Ethics Committee, and to the Law Institute. He cited her representation of himself (she had been involved in the preparation of his committal proceedings), and Messrs McGrath (see above) and Andrews (whom she had visited in custody following the murder of Mr Marshall) at various stages, and now Mr Thomas.
1008. It would be reasonable to conclude that had any of the above been made aware of the true nature of Ms Gobbo's role a stop would have been put to it. On 7 August 2006, when Mr Williams' lawyer, Mr Peter Faris, indicated he would seek an injunction to prevent her from acting for Mr Thomas she withdrew, telling her handlers and Mr Bateson that she would nevertheless continue advising him and preparing his plea in the background.¹²⁵⁰ It is submitted that the SDU and investigators effectively condoned Ms Gobbo's dishonest denial of those complaints.
1009. On 12 August 2006, Ms Gobbo authored a memorandum to Mr Duncan Allen SC, new counsel for Mr Thomas, providing him with background, details and instructions in relation to the plea of Mr Thomas.
1010. Ms Gobbo indicated that the plea for Mr Thomas had been listed to proceed on 9 August 2006, however 'the Williams camp' found out about that date, and that Ms Gobbo was to appear. Carl Williams had taken it upon himself to write directly to Justice King complaining that Ms Gobbo had a conflict. Ms Gobbo indicated that the relevant conflict was that she had appeared for he and his father as Mr Heliotis' junior in a drug trafficking committal two years earlier, and that the Ethics Committee had cleared her of conflict in this regard. Ms Gobbo said that irrespective of this, Carl Williams had instructed his counsel to seek her disqualification and to seek an injunction to prevent her appearing, consequently she had decided it was in Mr Thomas' best interests that she not appear.

1011. On the evidence, it is open to the Commissioner to find that Ms Gobbo was dishonest in her 12 August 2006 memorandum. That is so because, to her own knowledge, Ms Gobbo had numerous other conflicts of the very kind that Carl Williams was complaining about, as referred to above.

1012. Amongst further matters in her memorandum, Ms Gobbo indicated:
- Mr Bateson had visited Mr Thomas in custody a number of times in late 2005 and early 2006 where he was spoken to 'off the record'. Mr

¹²⁵⁰ Exhibit RC0281 ICR3838 (040), 7 August 2006, 385, VPL.2000.0003.1971.

Bateson would confirm this, although may not wish for it to come out in open as Mr Williams' lawyers would then demand the details

- the totality of Mr Thomas' assistance and details of who he has given information about, its value and charges that would result from his assistance would be addressed in a confidential affidavit to be provided to Justice King on the plea. Mr Bateson anticipated showing Ms Gobbo a draft on 15 August 2006 prior to it being sworn
- Justice King had been provided with copies of all 14 statements made by Mr Thomas, however only five had been served to date, the remaining relating to ongoing investigations and a claim of PII.

1013. On 13 August 2006, Mr Green reported to Mr Sandy White that Ms Gobbo had obtained a copy of a letter in which Mr Williams had referred to her as a 'dog'. They discussed Mr Williams' court case which was scheduled the following day, and the likelihood of his issuing subpoenas in order to determine Ms Gobbo's involvement in the matter. It was suggested that the letter might be useful to prevent any such disclosure. Mr Sandy White then spoke with Mr O'Brien who agreed.¹²⁵¹ By 15 August 2006, the Purana Taskforce had commenced an investigation into Carl Williams for making threats against Ms Gobbo, seizing his computer at the prison under warrant.¹²⁵²
1014. On 12 September 2006, Mr Green noted that Ms Gobbo was crying and frustrated over the complaints being made by Carl Williams. She was upset that no one was doing anything to stop them, it was unfair and ethically damaging. She was concerned it would have an impact on her practice.
1015. On 15 September 2006, Mr Bateson provided Ms Gobbo with the material Carl Williams had received under subpoena from the Purana Taskforce.¹²⁵³
1016. On 18 September 2006, Mr Peter Smith spoke to Mr O'Brien about the potential for him to be contacted by the Victorian Bar Association Ethics Committee. Mr O'Brien said that if he was contacted he would confirm known threats to Ms Gobbo for which there was an ongoing investigation, and that he believed that Mr Williams had the propensity for and possible ability to carry out threats, even from gaol. It was noted that these matters would be included by Ms Gobbo in her response to the complaint by Carl Williams.¹²⁵⁴ Mr Peter Smith then spoke to Ms Gobbo about corrections which should be made to her draft response to the Ethics Committee.¹²⁵⁵
1017. On 25 September 2006, Ms Gobbo submitted her response to the Ethics Committee of the Victorian Bar, which included claims that:
- there was an investigation by the Purana Taskforce into Carl Williams' recent behaviour towards her
 - she had never acted for Mr McGrath in relation to the matters of Moran and Barbaro, but had appeared for him on an unrelated plea

¹²⁵¹ Exhibit RC0292 Mr Sandy White diary, 13 August 2006, 43, VPL.0100.0096.0311 @.0353.

¹²⁵² Exhibit RC0292 Mr Sandy White diary, 15 August 2006, 45, VPL.0100.0096.0311 @.0355.

¹²⁵³ Exhibit RC0281 ICR3838 (045), 15 September 2006, 424, VPL.2000.0003.2010.

¹²⁵⁴ Exhibit RC0281 ICR3838 (045), 18 September 2006, 2, VPL.2001.0002.0001 @.0002; Exhibit RC0468 Mr Peter Smith diary, 18 September 2006, 373, RCMPI.0053.0001.0008 @.0373.

¹²⁵⁵ Exhibit RC0281 ICR3838 (046), 18 September 2006, 427, VPL.2000.0003.2013.

- she had never acted or appeared for Mr Andrews
 - she had never acted for Mr Williams in any relevant matter
 - she had been briefed for Mr Thomas in circumstances where Justice King, the Purana Taskforce, the OPP, Mr Coghlan, Mr Horgan, Mr Thomas, Mr Valos and those acting for Mr Williams took no objection and saw no issue of conflict, understanding that her brief for Mr Thomas had been limited and she would never appear at any committal or trial in which Mr McGrath was a witness
 - she had sought advice from a QC from the Ethics Committee on 7 August 2006 when objection had been taken, and the view was that there was no conflict were she to appear for Mr Thomas upon a plea in which there would be no contested hearing with cross-examination to occur
 - she invited enquiries to be made to confirm what she had said with various people including, Messrs O'Brien and Bateson at the Purana Taskforce.¹²⁵⁶
1018. Ms Gobbo reported to the SDU having sent the response, and also having spoken to someone at the Victorian Bar about Carl Williams.¹²⁵⁷
1019. Clearly, Ms Gobbo was confident that Messrs O'Brien and Bateson would not reveal the true nature of her conflict. By contrast to their conduct in respect of Ms Gobbo, in the months after this Purana investigators were dealing with the Legal Services Board in relation to Solicitor 2's practicing certificate.¹²⁵⁸
1020. If Messrs O'Brien and Bateson had acted appropriately, Ms Gobbo would not have been in the position of conflict in any case. Given they had not, the raising of Ms Gobbo's conflict by Carl Williams was another point at which they should have reflected on their obligations to the criminal justice system.

Ms Gobbo's Role as a Human Source in relation to Mr Thomas Following his Sentence on 27 September 2006

1021. Ms Gobbo continued to represent Mr Thomas from time to time until 8 August 2008,¹²⁵⁹ as well as inform to her handlers on him.
1022. Like Mr Cooper before him, Ms Gobbo took on a role that was more than legal advisor. She was confidante and counsellor as well. In her evidence Ms Gobbo spoke of the expectations of police upon her in relation to Mr Thomas:¹²⁶⁰

MS GOBBO: Well it may have been because, I guess it was because they, they got, they got people like Thomas to a position where they agreed to

¹²⁵⁶ Exhibit RC0197 Letter from Ms Nicola Gobbo to Ethics and Investigations, Victoria Bar, 25 September 2006, MIN.5000.0002.4491.

¹²⁵⁷ Exhibit RC0281 ICR3838 (045), 25 September 2006, 11, VPL.2001.0002.0001 @.0011.

¹²⁵⁸ Exhibit RC0312 Mr Gavan Ryan diary, 6 December 2006, 102 VPL.0005.0120.0187 @.0288.

¹²⁵⁹ *Orman v The Queen* [2019] VSCA 163.

¹²⁶⁰ Transcript of Ms Gobbo, 20 March 2019, 198, Ms Gobbo and RCMP 20.03.2019.

assist them or become, become Crown witnesses.

MR WINNEKE: Right.

MS GOBBO: And then they, then they couldn't work out they couldn't work out, it was a subject that I gave them plenty of criticism about, they couldn't work out how to give these people any kind of, not necessarily emotional support but just support in terms of somebody to talk to, and um, and it kind of, rightly or wrongly, they kind of assumed, oh, well, she'll sort that out.

1023. On 5 February 2007, Ms Gobbo reported he was involving himself in her romantic affairs and trying to 'set her up' with Purana investigator, Mr L'Estrange. On 29 March 2007, Ms Gobbo reported to her handler that Mr Thomas wanted her to take a power of attorney over his affairs,¹²⁶¹ then on 23 May 2007 she reported he had given her a power of attorney.¹²⁶²
1024. Mr Thomas told the Commission that such was his trust in Ms Gobbo, even though he'd had advice about appealing his sentence, he followed Ms Gobbo's advice not to.¹²⁶³
1025. Corrections Victoria records demonstrate she continued professional visits upon him though until mid 2007:
- 5 Oct 2006¹²⁶⁴
 - 13 Nov 2006¹²⁶⁵
 - 22 Dec 2206¹²⁶⁶
 - 29 March 2007¹²⁶⁷
 - 6 April 2007¹²⁶⁸
 - 11 June 2007.¹²⁶⁹
1026. Whilst Ms Gobbo's professional visits ceased after this time, their contact did not. This allowed Ms Gobbo to represent Mr Orman, against whom Mr Thomas was to be a witness.

¹²⁶¹ Exhibit RC0281 ICR3838 (072), 29 March 2007, 741, VPL.2000.0003.2327.

¹²⁶² Exhibit RC0281 ICR3838 (080), 23 May 2007, 851, VPL.2000.0003.2327.

¹²⁶³ Exhibit RC1649 Statement of Mr Thomas, 20 September 2019, 6 [25], RCMP.0131.0001.0001 @.0006.

¹²⁶⁴ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 25, CNS.0001.0003.0037 @.0061.

¹²⁶⁵ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 25, CNS.0001.0003.0037 @.0061.

¹²⁶⁶ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 26, CNS.0001.0003.0037 @.0062.

¹²⁶⁷ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 26, CNS.0001.0003.0037 @.0062.

¹²⁶⁸ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 26, CNS.0001.0003.0037 @.0062.

¹²⁶⁹ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 13 March 2019, 26, CNS.0001.0003.0037 @.0062; Exhibit RC0273 Ms Nicola Gobbo court book, 109, MIN.0001.0014.0784 @.0892.

1027. These matters, including Mr Orman's appeal against his conviction for murder, are dealt with at Chapter 16. Mr Orman was ultimately successful in his appeal because Ms Gobbo had improperly taken active steps to ensure that Mr Thomas gave evidence against him.

Part 5 – Submissions under Terms of Reference 1 and 2 in relation to Mr Thomas

1028. It is submitted that it is open to the Commissioner to find that the case of Mr Thomas may have been affected by the conduct of Ms Gobbo as a human source, as well as the conduct of members of Victoria Police in their disclosures about and recruitment, management, and handling of Ms Gobbo as a human source.
1029. The extent to which the case of Mr Thomas may have been affected can be measured by virtue of the following matters.

Conduct of Ms Gobbo

1030. First, Category 1A¹²⁷⁰ applies in that, between approximately August 2004 and June 2007,¹²⁷¹ Ms Gobbo acted for Mr Thomas while she was a human source,¹²⁷² and did not disclose same to him.¹²⁷³
1031. Secondly, Category 1B¹²⁷⁴ applies in that, between approximately July 2003 and approximately August 2008,¹²⁷⁵ which was during the period that Ms Gobbo acted for Mr Thomas in relation to the case, Ms Gobbo provided information in relation to him to members of Victoria Police¹²⁷⁶ and otherwise assisted (or attempted to assist) in his prosecution, and did not disclose same to him.
1032. Thirdly, Category 2A¹²⁷⁷ applies in that evidence relied upon by the prosecution in Mr Thomas' case¹²⁷⁸ may have been obtained in consequence of an impropriety or illegality in connection with the use of Ms Gobbo as a human source by Victoria Police.¹²⁷⁹
1033. Fourthly, Category 2B¹²⁸⁰ applies in that Ms Gobbo had knowledge of the circumstances founding the above¹²⁸¹ and failed to disclose same to her client, Mr Thomas, thereby depriving him of the ability to object to its admission.

1034. On the evidence, it is submitted that the above conduct by Ms Gobbo under Categories 1A and 1B, together with conduct under Categories 2A and 2B, evinces a conflict of interest and may

¹²⁷⁰ See Legal Principles Submissions at [249].

¹²⁷¹ See above analysis at [444], [1022]-[1026].

¹²⁷² See Legal Principles Submissions at [20].

¹²⁷³ See Legal Principles Submissions at [239].

¹²⁷⁴ See Legal Principles Submissions at [249].

¹²⁷⁵ See above analysis at [444]–[448], [1026].

¹²⁷⁶ See above analysis under Part 4, esp at [806]-[807].

¹²⁷⁷ See Legal Principles Submissions at [249].

¹²⁷⁸ See above analysis at [815]–[965], in particular in his admissions and entry of his plea.

¹²⁷⁹ See Legal Principles Submissions at [196]-[222].

¹²⁸⁰ See Legal Principles Submissions at [249].

¹²⁸¹ See above analysis at [815]–[965], in particular in his admissions and entry of his plea.

constitute breaches of her duty to the administration of justice, her duty to the court, her duty to her client, and her fiduciary duties.¹²⁸² Further, in certain instances identified above,¹²⁸³ Ms Gobbo's conduct may constitute a breach of legal professional privilege and/or confidence.¹²⁸⁴

1035. It should be noted, as set out at [254] of the Legal Principles Submissions, that the Categories may apply even in circumstances where Ms Gobbo appeared at preliminary stages of proceedings (such as in mention hearings, bail applications and committals), and did not appear at trial. In some cases she was led at trial. In other cases she provided advice in relation to, but did not appear in, criminal proceedings. In some cases the information Ms Gobbo passed on to Victoria Police was relatively innocuous and/or based on the evidence reviewed by counsel assisting there is no suggestion that the information materially advanced the prosecution of her client. Cases will inevitably turn on their facts as to whether there was a sufficient connection between the conduct of Ms Gobbo and Victoria Police members and the conviction upon trial of the accused, or the accused's plea of guilty, to potentially result in a substantial miscarriage of justice.

1036.

[REDACTED]

1037.

[REDACTED]

¹²⁸² See Legal Principles Submissions at [320]-[329] and [307]-[309].
¹²⁸³ See above analysis at Part 4, in particular at [806] – [808].
¹²⁸⁴ See Legal Principles Submissions at [310]-[319] and [301]-[306].
¹²⁸⁵ See above analysis at [447].
¹²⁸⁶ See Legal Principles Submissions at [278]-[297].
¹²⁸⁷ See above analysis at Part 4.
¹²⁸⁸ See Legal Principles Submissions at [257]-[277].

[REDACTED]

1038. On 8 September 2005, in the circumstances set out in [788] to [796] above, Ms Gobbo:

- appeared for Mr Thomas in a Supreme Court bail application before Justice King¹²⁸⁹
- was aware at that time that she had a conflict of interest between Mr McGrath and Mr Thomas
- was aware at that time that she had a conflict of interest between assisting Victoria Police and Mr Thomas¹²⁹⁰
- was aware that she had developed an informing relationship with Mr Bateson in which she felt beholden to him for not telling Mr Thomas, amongst others, that she had assisted and/or encouraged Mr McGrath to make a statement implicating Mr Thomas in a double murder
- deliberately concealed from Mr Thomas knowledge that she had about the preparedness of Mr McGrath to make statements that she considered were ridiculous or about which she was sceptical
- deliberately concealed from him potential weaknesses in the case against him that was within her knowledge, namely the circumstances in which Mr McGrath's statement about the murder of Mr Marshall were changed¹²⁹¹
- did not seek to use information in her possession that would strengthen Mr Thomas' case for bail to be granted
- would have been aware that not being granted bail would contribute to Mr Thomas being prepared to assist police and implicate his associates.

1039. On 19 to 22 April 2006, as set out in [899] to [923] above, Ms Gobbo was secretly provided with and reviewed confidential transcripts of Mr O'Brien's and Mr Bateson's discussions with Mr Thomas in order

¹²⁸⁹ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 8 September 2005, 23-24, VPL.0015.0001.0409 @.0431-.0432.

¹²⁹⁰ See, for example, [664] and [665] above, together with Ms Gobbo's conduct with members of the Purana Taskforce in relation to both Mr McGrath and Mr Thomas prior to 8 September 2005.

¹²⁹¹ Transcript of Ms Nicola Gobbo, 6 February 2020, 13360, TRN.2020.02.06.01.P.

to have Ms Gobbo assist encouraging Mr Thomas to make admissions, plead guilty and assist police in incriminating his associates, and Ms Gobbo's conduct occurred in circumstances where:

- **Ms Gobbo was a registered human source**
- **Ms Gobbo's instructing solicitor was not advised of the meeting or of the provision of the transcripts**
- **the transcripts were provided to Ms Gobbo by her handlers, and not the informant**
- **Ms Gobbo was actively assisting the Purana Taskforce at the relevant time**
- **Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
- **Mr Thomas was entitled to independent legal representation**
- **Mr Thomas was not informed by Victoria Police or by Ms Gobbo that Ms Gobbo was working as an agent of Victoria Police.**

1040.

[REDACTED]

Conduct of Victoria Police

1041. There was an obligation upon all members of Victoria Police, in particular those with management and oversight responsibilities, who had knowledge of the recruitment, handling and management of Ms Gobbo as a human source, to take all steps necessary to ensure that:¹²⁹⁴

1041.1. the same was lawful and not improper, and did not interfere with the right to a fair trial of any person charged with a criminal offence, including Mr Thomas;

¹²⁹² See below analysis concerning possible misconduct in public office on the part of the relevant members of police.

¹²⁹³ See Legal Principles Submissions at [292]-[300], [476]-[501].

¹²⁹⁴ See Legal Principles Submissions at [384] and [452]-[457].

- 1041.2. in the event that the same had the potential to interfere with the right to a fair trial of any person including Mr Thomas, appropriate disclosure was made; or alternatively
- 1041.3. if such disclosure was not to be made, to have matters of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.
1042. In circumstances set out in this case study, it is submitted that not all necessary steps were taken, and accordingly there was the potential for the right of Mr Thomas to a fair trial to have been interfered with.
1043. Further, it is submitted that there was a failure by members of Victoria Police to make appropriate disclosure to Mr Thomas and/or his legal representatives.
1044. In the alternative, if such disclosure was not to be made by members of Victoria Police, there was a failure to take steps to have matters of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.¹²⁹⁵
1045. Victoria Police is a part of the prosecution for the purposes of disclosure. If the prosecution of the accused was to continue, this was a duty owed to the Court. It does not matter whether the prosecutors were unaware of the relevant information.¹²⁹⁶
1046. Further, the duty of disclosure is ongoing, and the involvement of Ms Gobbo as a human source should have been disclosed to the accused even after his guilty plea.¹²⁹⁷
1047. Category 3A¹²⁹⁸ applies in that there was non-disclosure of Ms Gobbo's status as a human source, and a failure to take any steps to have potential issues of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.
1048. Category 3B¹²⁹⁹ applies in that, during the period Ms Gobbo acted for Mr Thomas, she provided information in relation to him to members of Victoria Police and/or otherwise assisted the prosecution of the accused,¹³⁰⁰ and there was non-disclosure of same, and a failure to take any steps to have potential issues of PII or matters of state considered by the DPP or the VGSO and then possibly a court.
1049. Category 4A¹³⁰¹ applies in that, as noted above, evidence relied upon by the prosecution may have been obtained in consequence of an impropriety or illegality in connection with the use of Ms Gobbo as a human source by Victoria Police.

¹²⁹⁵ See Legal Principles Submissions at [380]-[385].

¹²⁹⁶ See Legal Principles Submissions at [351], [362]-[373].

¹²⁹⁷ See Legal Principles Submissions at [351], [374].

¹²⁹⁸ See Legal Principles Submissions at [465].

¹²⁹⁹ See Legal Principles Submissions at [465].

¹³⁰⁰ See above analysis at [1031].

¹³⁰¹ See Legal Principles Submissions at [465].

1050. Category 4B¹³⁰² applies in that there was the above conduct, and there was non-disclosure of same, and a failure to take any steps to have potential issues of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.
1051. As noted above, cases will inevitably turn on their facts as to whether there was a sufficient connection between the conduct of Ms Gobbo and Victoria Police members and the conviction upon trial of the accused, or the accused's plea of guilty, to potentially result in a substantial miscarriage of justice.

Conduct of Specific Members of Victoria Police

1052. The following passages focus on particular police members and their knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Thomas. The particular members are analysed due to their seniority or the significant extent of their knowledge or involvement in the relevant events.

Mr Overland

1053. The following evidence is relevant to an analysis of Mr Overland's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Thomas:
1054. During the relevant period, Mr Overland was either Assistant Commissioner Crime¹³⁰³ or Deputy Commissioner.¹³⁰⁴ During the relevant period, as a police member, he was a public official.
- 1054.1. Mr Overland understood the obligation upon police to disclose relevant material¹³⁰⁵ beyond that relied upon by police in the brief of evidence, which included exculpatory matters such as material relating to the credibility of a witness whose credit was in issue.¹³⁰⁶
- 1054.2. He understood that where a public interest immunity claim was to be made it was appropriate to get legal advice about it.¹³⁰⁷
- 1054.3. He understood the right to silence and the right to be represented by a legal representative who was independent of the police.¹³⁰⁸

¹³⁰² See Legal Principles Submissions at [465].

¹³⁰³ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 7 [34], COM.0014.0001.0001 @.0007:

"In February 2003 I was appointed Assistant Commissioner Crime, Victoria Police, with direct line responsibility for the operation of the Crime Department and the management of major crime across and impacting on Victoria."

¹³⁰⁴ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 7-8 [37], COM.0014.0001.0001 @.0007-.0008:

In June 2006 I was appointed Deputy Commissioner, Victoria Police. I was responsible for corporate leadership and management in Victoria Police, including development and implementation of new service delivery principles across the organisation; reform of systems and work practices emphasising improvement of front-line capacity and service delivery.

¹³⁰⁵ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 29 [148], COM.0014.0001.0001 @.0029.

⁷⁹² Transcript of Mr Simon Overland, 16 December 2019, 11397, RC_MPI_16Dec19_provisional.

¹³⁰⁷ Transcript of Mr Simon Overland, 17 December 2019, 11471-11472, TRN.2019.12.17.01.P.

¹³⁰⁸ Transcript of Mr Simon Overland, 16 December 2019, 11324, RC_MPI_16Dec19_provisional.

- 1054.4. He understood the position of conflict Ms Gobbo would place herself in if she provided information about someone she was representing¹³⁰⁹ and that information gathered from such a situation could be inadmissible.¹³¹⁰ He also understood that if Ms Gobbo acted for an individual who provided evidence against another individual, she could not act for that other individual, and to do so had the potential to interfere with the course of justice.¹³¹¹
- 1054.5. Between 2004 and 2008 he had oversight of a number of investigations in which officers had dealings with Ms Gobbo. Primarily, these were operations related to Taskforces Purana and Petra.¹³¹²
- 1054.6. Mr Overland was heavily involved in Purana. He was aware that Ms Gobbo was involved in representing Mr McGrath.¹³¹³ Mr Overland was also aware that Ms Gobbo was providing information in relation to Operation Posse,¹³¹⁴ and in relation to associates of Mr Tony Mokbel.¹³¹⁵
- 1054.7. When he was appointed Deputy Commissioner in June 2006,¹³¹⁶ he continued to remain involved in oversight of the Crime Department.
- 1054.8. He was briefed by Mr Allen in relation to the 25 March 2004 meeting regarding the Marshall murder between Purana and various prosecutors at which the OPP was informed that Ms Gobbo had indicated on 22 March 2004 that Mr McGrath was contemplating co-operating with police and pleading guilty to the murder of Mr Marshall in return for a reduced sentence.¹³¹⁷
- 1054.9. On 8 April 2004, he was briefed by Mr Allen and Mr Ryan about their meeting with Ms Gobbo the previous day and the progression of the McGrath issue.¹³¹⁸
- 1054.10. On 24 May 2004 he received an update that Mr McGrath had spoken to Ms Gobbo and was wavering.¹³¹⁹
- 1054.11. On 18 June 2004, he was briefed that 'Gobbo – wants to plead to murder ASAP' and that statements would be taken at the prison in the next two days.¹³²⁰
- 1054.12. On 12 July 2004 Mr Ryan briefed him about Ms Gobbo's involvement in Mr McGrath's statements,¹³²¹ and specifically that

¹³⁰⁹ Transcript of Mr Simon Overland, 17 December 2019, 11435, TRN.2019.12.17.01.P.

¹³¹⁰ Transcript of Mr Simon Overland, 17 December 2019, 11436, TRN.2019.12.17.01.P.

¹³¹¹ Transcript of Mr Simon Overland, 19 December 2019, 11753, TRN.2019.12.19.01.P.

¹³¹² Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 10 [49],

COM.0014.0001.0001 @.0010.

¹³¹³ Transcript of Mr Simon Overland, 16 December 2019, 11395, RC_MPI_16Dec19_provisional.

¹³¹⁴ Transcript of Mr Simon Overland, 16 December 2019, 11333, RC_MPI_16Dec19_provisional.

¹³¹⁵ Transcript of Mr Simon Overland, 17 December 2019, 11442, TRN.2019.12.17.01.P.

¹³¹⁶ Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 7 [37], COM.0014.0001.0001 @.0007.

¹³¹⁷ Exhibit RC0249 Mr Andrew Allen diary, 25 March 2004, 1, VPL.0005.0118.0001 @.0001.

¹³¹⁸ Exhibit RC0249 Mr Andrew Allen diary, 8 April 2004, 5, VPL.0005.0130.0001 @.0005.

¹³¹⁹ Exhibit RC0109 Mr Terry Purton diary, 24 May 2004, 8, VPL.0005.0156.0038 @0044.

¹³²⁰ Exhibit RC0109 Mr Terry Purton Diary, 18 June 2004, 79, VPL.0005.0146.0001 @ 0079.

¹³²¹ In evidence, Mr Purton could not recall who the individual was (noted as 'SC' or 'SG' in his diary): see Transcript of Mr Terry Purton, 14 May 2019, 1704, TRN.2019.05.14.01.P; See also Exhibit RC0312 Mr Gavan Ryan diary, 12 July 2004, 9, VPL.0005.0148.0001 @.0009.

Mr McGrath's draft statements had been shown to Ms Gobbo, and were to be changed because Ms Gobbo thought that Mr McGrath saying he did not know a murder was going to occur was 'ridiculous'.

- 1054.13. On 19 and 20 February 2006 (at a time when he knew Ms Gobbo was a registered human source) he had conversations in which the possibility of Mr Thomas talking to the police was discussed.
- 1054.14. Mr Overland was reluctant to concede that by this time he was aware that Ms Gobbo was acting for Mr Thomas.¹³²²
- 1054.15. In his statement, Mr Overland says that at some unspecified time, he 'later came to understand that (Mr McGrath) was represented by Ms Gobbo, but (he) did not know this at the time'.¹³²³ Such knowledge would have been relevant to Mr Thomas' matter.
- 1054.16. Mr O'Brien briefed Mr Overland about the 22 February 2006 and 15 March 2006 discussions with Mr Thomas [REDACTED].¹³²⁴
- 1054.17. On 22 June 2006, he was party to discussions in which it was resolved that Mr Thomas' account of the Moran/Barbaro murder was not accepted as truthful.¹³²⁵
- 1054.18. In mid-August 2006, he was aware of 'PII issues' in handing over the statements of Mr Thomas and Mr Andrews – it is noted that above a submission is made concerning a finding which is open to be made regarding the need to obtain legal advice at that stage.

1055. On the evidence, it is open to the Commissioner to find that, by at least February 2006, Mr Overland knew that Ms Gobbo (who he knew to be a human source) was acting for Mr Thomas. That is so, because:

- 1055.1. Ms Gobbo's role in advising Mr Thomas would have been discussed in the telephone conversation between Mr Ryan and Mr Overland on 19 February 2006, given the significant issues discussed in that call and Ms Gobbo's centrality to those issues**
- 1055.2. Mr Overland was being informed as to relevant dealings of members of Victoria Police concerning Mr Thomas**
- 1055.3. there was no reason why that information would have been withheld from him; it was naturally relevant to the discussions that would have occurred when it became known that Mr Thomas**

¹³²² Transcript of Mr Simon Overland, 17 December 2019, 11477-11478, TRN.2019.12.17.01.P.

¹³²³ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 13 [68],

COM.0014.0001.0001 @.0013.

¹³²⁴ Exhibit RC0933 Mr James (Jim) O'Brien diary, 15 March 2006, 184, RCMP1.0053.0001.0003 @.0184.

¹³²⁵ Exhibit RC0272 Commander Stuart Bateson day book, 22 June 2006, 128, VPL.0005.0058.0233 @.0360

- wanted to assist, and would be naturally relevant in Mr Overland's discussion with Mr Coghlan
- 1055.4. **Mr Overland has claimed that he was surprised and concerned when he learned that Ms Gobbo was a human source, and that he was always concerned by and appreciated the legal and ethical issues about her role as a human source.¹³²⁶ His evidence was that he gave a strict direction that Ms Gobbo could not continue to act for people if she was providing information about them.¹³²⁷ He would have taken an interest in whether or not Ms Gobbo was representing Mr Thomas**
- 1055.5. **The fact that Ms Gobbo was acting for Mr Thomas was known to Mr Coghlan and Mr Horgan (with whom Mr Overland had dealings), who had appeared before Justice Gillard opposing the stay of Mr Coghlan's direct presentment in December 2004. Mr Overland has sought to suggest, perhaps as an attempt to share or deflect blame, that everything that he did, by way of convincing accused persons to provide evidence against co-accused or more significant suspects or targets (a key technique employed by Purana), was done with the full knowledge and agreement of Mr Coghlan and Mr Horgan.¹³²⁸ It may be that there was a great deal of communication with Mr Coghlan and more particularly Mr Horgan, about the securing of evidence from these individuals, but the most critical item of information that was kept from both of them, was that Mr Thomas' barrister was a human source, who had been engaged by Purana to assist them to convict Mr Mokbel and his associates (one of whom was Mr Thomas).**
1056. **If it is accepted that Ms Gobbo's representation of Mr Thomas while informing on him became known to Mr Overland at any time during his employment at Victoria Police, on the evidence, it is open to the Commissioner to find that Mr Overland knew that:**
- 1056.1. **Ms Gobbo was a barrister and human source**
- 1056.2. **Ms Gobbo had, as his legal representative, assisted in Mr McGrath's statement making process**

¹³²⁶ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 1 [8], COM.0014.0001.0001 @.0001.

¹³²⁷ Transcript of Mr Simon Overland, 17 December 2019, 11454, TRN.2019.12.17.01.P.

¹³²⁸ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 12 [62]-[63], COM.0014.0001.0001 @.0012.

- 1056.3. **Ms Gobbo was informing on Mr Thomas while purporting to act for him**
- 1056.4. **Ms Gobbo was actively assisting the Purana Taskforce at the relevant time**
- 1056.5. **Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
- 1056.6. **Mr Thomas was entitled to independent legal representation**
- 1056.7. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Thomas**
- 1056.8. **Victoria Police was using Ms Gobbo to encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so in circumstances where she was assisting Victoria Police**
- 1056.9. **Ms Gobbo encouraged Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates in circumstances where she was assisting Victoria Police**
- 1056.10. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Thomas or anyone Mr Thomas made statements against.**
1057. **If it is accepted that Ms Gobbo's representation of Mr Thomas while informing on him became known to Mr Overland at any time during his employment at Victoria Police, on the evidence, it is open to the Commissioner to find that Mr Overland allowed, or alternatively did not prevent, Ms Gobbo representing Mr Thomas, in circumstances where he knew the matters at [1056.1] to [1056.10].**
1058. **In the event that the Commissioner does not accept that Ms Gobbo's representation of Mr Thomas while informing on him became known to Mr Overland at any time during the relevant period, it is open to the Commissioner to find that Mr Overland should have made inquiries and discovered those matters. That is so because his evidence was that he gave a precise direction that Ms Gobbo could not continue to act for people if she was providing information about them.¹³²⁹ Given he was legally qualified and, to give this direction, readily identified the serious risks posed to the integrity of the administration of justice, he had an obligation to make inquiries as to whether his direction was being complied with.**

¹³²⁹ Transcript of Mr Simon Overland, 17 December 2019, 11454, TRN.2019.12.17.01.P.

Mr O'Brien

1059. The following evidence is relevant to an analysis of Mr O'Brien's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Thomas:
- 1059.1. During the relevant period, as a police member, Mr O'Brien was a public official.
 - 1059.2. Between 8 January 2002 and November 2005, Mr O'Brien was Detective Senior Sergeant/Acting Detective Inspector at the MDID. On about 12 September 2005 he had been acting as the OIC of the Purana Taskforce and was told he was to be permanently its OIC.¹³³⁰
 - 1059.3. He understood the obligation upon police to disclose relevant material, including exculpatory material.¹³³¹
 - 1059.4. He understood that where a PII claim was to be made it was appropriate to get legal advice about it¹³³² and that determination of a claim of PII was a matter for the court.¹³³³
 - 1059.5. He was aware that he could seek legal advice in relation to disclosure matters.¹³³⁴
 - 1059.6. He understood the right to be represented by a legal representative who was independent of the police.¹³³⁵
 - 1059.7. His evidence concerning his understanding of conflict of interest was that:
 - it was a conflict of interest for a barrister to represent a person in a situation where she was unable to provide independent advice¹³³⁶
 - it was appropriate that advice would be sought from the OPP about Ms Gobbo appearing for various people in positions of conflict¹³³⁷
 - it would be a conflict for Ms Gobbo to represent a client and to provide information in relation to him.¹³³⁸

¹³³⁰ Exhibit RC0464b Longer statement of Mr James (Jim) O'Brien, 14 June 2019, 1 [4], 10 [43], 11 [49], VPL.0014.0040.0001 @.0001, .0010, .0011.

¹³³¹ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5548, RC_MPI_04Sep19_provisional.

¹³³² Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5709, RC_MPI_05Sep19_provisional.

¹³³³ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5712, RC_MPI_05Sep19_provisional.

¹³³⁴ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5490, RC_MPI_04Sep19_provisional.

¹³³⁵ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5651, RC_MPI_05Sep19_provisional.

¹³³⁶ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5589, RC_MPI_04Sep19_provisional;

Transcript of Mr James (Jim) O'Brien, 6 September 2019, 5804, RC_MPI_06Sep19_provisional.

¹³³⁷ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5463, 5465, TRN.2019.09.03.01.P; 4 September 2019, 5508, RC_MPI_04Sep19_provisional.

¹³³⁸ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5513, RC_MPI_04Sep19_provisional.

- 1059.8. He said he could not prevent Ms Gobbo from acting in a position of conflict with respect to Mr Thomas as this would compromise her safety.¹³³⁹
- 1059.9. He knew that Ms Gobbo was acting for Mr Thomas at the relevant time.¹³⁴⁰
- 1059.10. He knew that Ms Gobbo was a registered human source who was providing the police with information, including information concerning Mr Thomas.¹³⁴¹
- 1059.11. He knew that Ms Gobbo continued to represent/advise Mr Thomas whilst informing upon him.¹³⁴²
- 1059.12. He was at the meeting where it was decided that the transcripts of meetings between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo.¹³⁴³
- 1059.13. He knew that Ms Gobbo would be used in order to encourage Mr Thomas to decide to 'roll'.¹³⁴⁴

1060. On the evidence, it is open to the Commissioner to find that between 16 September 2005 and about June 2007, Mr O'Brien knew that:

- 1060.1. **Ms Gobbo was a barrister and human source**
- 1060.2. **Ms Gobbo had, as his legal representative, assisted in Mr McGrath's statement making process**¹³⁴⁵
- 1060.3. **Ms Gobbo was informing on Mr Thomas while purporting to act for him**
- 1060.4. **Ms Gobbo was actively assisting the Purana Taskforce at the relevant time**
- 1060.5. **Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
- 1060.6. **Mr Thomas was entitled to independent legal representation**

¹³³⁹ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5651, RC_MPI_05Sep19_provisional.

¹³⁴⁰ Exhibit RC0772 Transcript of meeting between Stuart Bateson, Thomas and James (Jim) O'Brien, 15 March 2006, 3, VPL.0005.0062.0176 @.0178; Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022; RC0933 Mr James (Jim) O'Brien diary, 19 February 2006, 137, VPL.0100.0073.0076 @.0212.

¹³⁴¹ Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022; RC0933 Mr James (Jim) O'Brien diary, 19 February 2006, 137, VPL.0100.0073.0076 @.0212; Exhibit RC0284 SML3838, 19 February 2006, 15, VPL.2000.0001.9447 @.9461.

¹³⁴² Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5647-5652, RC_MPI_05Sep19_provisional.

¹³⁴³ See [903] to [914] above.

¹³⁴⁴ Exhibit RC0272 Commander Stuart Bateson diary, 19 April 2006, 113, VPL.0005.0058.0233 @.0345; Exhibit RC0933 Mr James (Jim) O'Brien diary, 19 April 2006, 198, VPL.0100.0073.0076 @.0273.

¹³⁴⁵ Due to his role as Officer in Charge of the Purana Taskforce.

- 1060.7. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Thomas**
- 1060.8. **Victoria Police was using Ms Gobbo to encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so in circumstances where she was assisting Victoria Police**
- 1060.9. **Ms Gobbo encouraged Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates in circumstances where she was assisting Victoria Police**
- 1060.10. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Thomas or anyone Mr Thomas made statements against.**
1061. 
1062. **On the evidence, it is open to the Commissioner to find that between about September 2005 and about June 2007, Mr O'Brien, allowed, or alternatively did not prevent, Ms Gobbo from representing Mr Thomas, in circumstances where he knew the matters [1060.1] to [1060.10], together with the following matters:**
- 1062.1. **his 20 February 2006 agreement with Mr Sandy White that Mr O'Brien would monitor Mr Bateson's notes 're sanitising HS involvement in Thomas s'ment'¹³⁴⁶**
- 1062.2. **Ms Gobbo's influence over Mr Thomas' personal partner**
- 1062.3. **Mr Thomas' 23 March 2006 discussions with Mr O'Brien and Mr Bateson at which Mr Thomas was assured of Ms Gobbo's honesty and was encouraged to, or alternatively not dissuaded from, using Ms Gobbo as his legal representative in the process of making admissions, entering a plea and implicating his associates.**

¹³⁴⁶ Exhibit RC0292 Mr Sandy White diary, 20 February 2006, 125, VPL.0100.0096.0468 @.0592.

1063. **On the evidence, it is open to the Commissioner to find that on 23 March 2006 Mr O'Brien was party to discussions between Mr Thomas, Mr Bateson and himself where:**
- 1063.1. **Mr O'Brien was aware that Mr Thomas had been charged with a double murder and was facing life imprisonment**
 - 1063.2. **Mr O'Brien was aware that Mr Thomas was entitled to independent legal representation**
 - 1063.3. **Mr O'Brien was aware that Ms Gobbo was a barrister and human source**
 - 1063.4. **Mr O'Brien was aware that Ms Gobbo was not able to independently represent Mr Thomas**
 - 1063.5. **Mr O'Brien was aware that Ms Gobbo was serving the interests of Victoria Police**
 - 1063.6. **Mr Thomas was assured of Ms Gobbo's honesty**
 - 1063.7. **Mr Thomas was encouraged to, or alternatively not dissuaded from, using Ms Gobbo as his legal representative in the process of making admissions, entering a plea and implicating his associates**
 - 1063.8. **Mr Thomas was not told that Ms Gobbo was an agent of Victoria Police**
 - 1063.9. **Mr Thomas was deceived in a manner that was calculated to deprive him of independent legal representation**
 - 1063.10. **The above conduct occurred with intention of the aim of obtaining evidence from Mr Thomas which could be relied upon in cases against Mr Thomas' associates who he implicated.**
1064. **On the evidence, it is open to the Commissioner to find that on 19 April 2006, Mr O'Brien was aware of, and party to, a plan that the Purana Taskforce would no longer directly encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, rather, confidential transcripts of the discussions between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo, a human source who Mr Thomas believed to be his lawyer, in order for Ms Gobbo to encourage Mr Thomas in that regard.**

Mr Ryan

1065. The following evidence is relevant to an analysis of Mr Ryan's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Thomas:

- 1065.1. During the relevant period, as a police member, Mr Ryan was a public official.
- 1065.2. In 2003 Mr Ryan joined the Purana Taskforce as a Detective Senior Sergeant and later a Detective Inspector.¹³⁴⁷
- 1065.3. When he first arrived at the Purana Taskforce, Mr Ryan grew suspicious of Ms Gobbo due to her connection with the Carl Williams Crew.¹³⁴⁸ As a result he put Ms Gobbo under surveillance in around 2003 or 2004.¹³⁴⁹ He also understood that at this time, she was acting for members of that crew.¹³⁵⁰
- 1065.4. On 25 March 2004, he was aware that Ms Gobbo had indicated on 22 March 2004 that Mr McGrath was contemplating co-operating with police and pleading guilty to the murder of Mr Marshall in return for a reduced sentence.¹³⁵¹
- 1065.5. On 7 April 2004, he was aware of the conflict of interest that Ms Gobbo faced in acting for McGrath at the same time as acting for Mr Williams.¹³⁵²
- 1065.6. He was aware of Ms Gobbo's role in relating to Mr McGrath's statements.¹³⁵³
- 1065.7. He was aware that a conflict of interest existed in Ms Gobbo acting for Mr Thomas.¹³⁵⁴
- 1065.8. He was aware of Mr Bateson's dealings with Ms Gobbo in May¹³⁵⁵ and September 2005¹³⁵⁶ and Mr Bateson had reported to Mr Ryan Ms Gobbo's willingness to provide information concerning underworld figures.¹³⁵⁷
- 1065.9. On 31 August 2005, Mr O'Brien told Mr Ryan about Ms Gobbo's willingness to assist Victoria Police in relation to Tony Mokbel.¹³⁵⁸
- 1065.10. He was aware at least by December 2005 that Ms Gobbo was a registered human source using the number 3838.¹³⁵⁹
- 1065.11. He was in charge of managing the process of Mr Andrews assisting Victoria Police in early 2006.¹³⁶⁰

¹³⁴⁷ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 1 [3i], VPL.0014.0039.0001 @.0001.

¹³⁴⁸ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 4 [21], VPL.0014.0039.0001 @.0004.

¹³⁴⁹ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 4 [21], VPL.0014.0039.0001 @.0004.

¹³⁵⁰ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 4 [20], VPL.0014.0039.0001 @.0004.

¹³⁵¹ See [547] to [550] above.

¹³⁵² See [561] to [563] above.

¹³⁵³ Exhibit RC0312 Mr Gavan Ryan diary, 7 April 2004, 6, VPL.0005.0148.0001 @.0006.

¹³⁵⁴ Transcript of Mr Gavan Ryan, 13 August 2019, 4452, TRN.2019.08.13.01.C.

¹³⁵⁵ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 19 May 2005, 19, VPL.0015.0001.0409 @.0427; Exhibit RC0272 Commander Stuart Bateson diary, 19 May 2005, 17, VPL.0005.0058.0233 @.0249,

¹³⁵⁶ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 1 September 2005, 23, VPL.0015.0001.0409 @.0431; Exhibit RC0272 Commander Stuart Bateson diary, 1 September 2005, 51, VPL.0005.0058.0233 @.0283.

¹³⁵⁷ RC0310 Statement of Gavan Ryan, 13 June 2019, 7 [36], VPL.0014.0039.0001 at .0007.

¹³⁵⁸ Exhibit RC0464 Longer statement of Mr James (Jim) O'Brien, 14 June 2019, 10 [47] VPL.0014.0040.0001 @.0010.

¹³⁵⁹ RC0310 Statement of Gavan Ryan, 13 June 2019, 7 [41] VPL.0014.0039.0001 @.0007.

¹³⁶⁰ Exhibit RC0312 Mr Gavan Ryan diary, 7-18 February 2006, 21-23, VPL.0005.0120.0187 @.0207-.0209; Exhibit RC0984 Mr Simon Overland Diary, 6 February 2006, 242, VPL.0005.0264.0053 @.0294.

- 1065.12. On 19 February 2006, Mr Bateson updated him as to Ms Gobbo's visit to Mr Thomas that day and the possibility he would assist the police. Mr Ryan briefed Messrs Overland, Horgan and O'Brien to advise them of the possible development.¹³⁶¹
- 1065.13. He was placed in charge of Mr Thomas when he decided to 'roll' and assist police.¹³⁶²
- 1065.14. He was at the meeting where it was decided that the transcripts of meetings between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo.¹³⁶³
- 1065.15. He was acting head of Purana Taskforce when Mr Thomas made his decision to 'roll'.¹³⁶⁴
- 1065.16. On 19 June 2006, he was aware of Mr Thomas' proposal to plead guilty and Ms Gobbo's involvement.¹³⁶⁵
- 1065.17. On 29 June 2006, he was present in the Supreme Court when, represented by Ms Gobbo, Mr Thomas was arraigned and entered a plea of guilty to the murder of Jason Moran before Justice Eames.¹³⁶⁶
- 1065.18. In his view, concerns as to the propriety of the use of Ms Gobbo as a human source given her occupation were a matter for the SDU, not for him.¹³⁶⁷
- 1065.19. He understood the obligation upon police to disclose relevant material which might assist an accused person in finding a defence that is available to them.¹³⁶⁸
- 1065.20. He understood that the criminal justice system entitled a person arrested or charged with a criminal offence to the right to silence¹³⁶⁹ and the right to obtain legal advice.¹³⁷⁰
- 1065.21. He had some feeling of discomfort about Ms Gobbo representing various individuals.¹³⁷¹ However in Mr Ryan's view that this was ultimately a matter for Ms Gobbo.¹³⁷² Mr Ryan confirmed he had this feeling during the period in which Ms Gobbo was a human source.¹³⁷³
- 1065.22. His evidence was that:
- the SDU would have an obligation to act in relation to circumstances where a lawyer who is actively providing

¹³⁶¹ Exhibit RC0312 Mr Gavan Ryan diary, 19 February 2006, 3, VPL.0005.0120.0020 @.0022.

¹³⁶² Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 8 [47] VPL.0014.0039.0001 @.0008.

¹³⁶³ See [903] to [914] above.

¹³⁶⁴ See [945] above.

¹³⁶⁵ Exhibit RC0281 ICR3838 (036), 19 June 2006, 336, VPL.2000.0003.1922.

¹³⁶⁶ Exhibit RC0281 ICR3838 (036), 29 June 2006, 346, VPL.2000.0003.1932.

¹³⁶⁷ Transcript of Mr Gavan Ryan, 9 August 2019, 4305, TRN.2019.08.09.01.P.

¹³⁶⁸ Transcript of Mr Gavan Ryan, 9 August 2019, 4254, TRN.2019.08.09.01.P.

¹³⁶⁹ Transcript of Mr Gavan Ryan, 9 August 2019, 4319, TRN.2019.08.09.01.P.

¹³⁷⁰ Transcript of Mr Gavan Ryan, 13 August 2019, 4353, TRN.2019.08.13.01.P.

¹³⁷¹ Transcript of Mr Gavan Ryan, 14 August 2019, 4497-4498, TRN.2019.08.14.01.P.

¹³⁷² Transcript of Mr Gavan Ryan, 14 August 2019, 4497-4498, TRN.2019.08.14.01.P.

¹³⁷³ Transcript of Mr Gavan Ryan, 14 August 2019, 4497-4498, TRN.2019.08.14.01.P.

information about her own clients, who clearly has a conflict of interest¹³⁷⁴

- there was a potential risk for a substantial miscarriage of justice to occur as a result of a conflict of interest¹³⁷⁵
- It would be unusual for a barrister to assist an individual in getting the best deal possible, acting as a human source at the same time, and then representing the next person who the first person had implicated, particularly if that involvement is not disclosed to the second client¹³⁷⁶
- despite Ms Gobbo acting as a rule unto herself in relation to conflicts of interest, he congratulated her for that.¹³⁷⁷

1066. **On the evidence, it is open to the Commissioner to find that between 16 September 2005 and about June 2007, Mr Ryan knew that:**

- 1066.1. **Ms Gobbo was a barrister and human source**
- 1066.2. **Ms Gobbo had, as his legal representative, assisted in Mr McGrath's statement making process**
- 1066.3. **Ms Gobbo was informing on Mr Thomas while purporting to act for him**
- 1066.4. **Ms Gobbo was actively assisting the Purana Taskforce at the relevant time**
- 1066.5. **Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
- 1066.6. **Mr Thomas was entitled to independent legal representation**
- 1066.7. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Thomas**
- 1066.8. **Victoria Police was using Ms Gobbo to encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so in circumstances where she was assisting Victoria Police**
- 1066.9. **Ms Gobbo encouraged Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates in circumstances where she was assisting Victoria Police**

¹³⁷⁴ Transcript of Mr Gavan Ryan, 9 August 2019, 4344, TRN.2019.08.09.01.C.

¹³⁷⁵ Transcript of Mr Gavan Ryan, 13 August 2019, 4453, TRN.2019.08.13.01.C.

¹³⁷⁶ Transcript of Mr Gavan Ryan, 14 August 2019, 4596, TRN.2019.08.14.01.P.

¹³⁷⁷ Transcript of Mr Gavan Ryan, 14 August 2019, 4536, TRN.2019.08.14.01.P.

- 1066.10. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Thomas or anyone Mr Thomas made statements against.**
1067. **Further, due to his involvement in the investigation and prosecution of people Mr Thomas implicated, it is open to the Commissioner to find that Mr Ryan was aware of the continued use of Ms Gobbo (who Mr Thomas understood to be his lawyer) as a human source against Mr Thomas in order to ensure that Mr Thomas continued to agree to implicate his criminal associates, in circumstances where Mr Ryan knew the matters at to [1066.1]- [1066.10]**
1068. **On the evidence, it is open to the Commissioner to find that between about September 2005 and about June 2007, Mr Ryan, allowed, or alternatively did not prevent, Ms Gobbo from representing Mr Thomas, in circumstances where he knew the matters [1066.1] to [1066.10].**
1069. **On the evidence, it is open to the Commissioner to find that on 19 April 2006, Mr Ryan was aware of, and party to, a plan that the Purana Taskforce would no longer directly encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, rather, confidential transcripts of the discussions between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo, a human source who Mr Thomas believed to be his lawyer, in order for Ms Gobbo to encourage Mr Thomas in that regard.**

Mr Bateson

1070. The following evidence is relevant to an analysis of Mr Bateson's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Thomas:
- 1070.1. During the relevant period, as a police member, Mr Bateson was a public official.
- 1070.2. In 2003, Mr Bateson held the position of Detective Sergeant at the Homicide Squad.¹³⁷⁸ In October 2003, Mr Bateson transferred to the Purana Taskforce.¹³⁷⁹ At this time Mr Bateson's superior officers were Senior Sergeant Gavan Ryan and Detective Inspector Andrew Allen.¹³⁸⁰
- 1070.3. Whilst he was in the Purana Taskforce, Mr Bateson was in charge of a crew of detectives who initially reported to Detective Senior Sergeant Gavan Ryan. Mr Bateson's crew was concentrating on investigating Carl William's criminal enterprise and the murder of a

¹³⁷⁸ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 1 [3f], VPL.0014.0027.0001 @.0001.

¹³⁷⁹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 1 [3g], VPL.0014.0027.0001 @.0001.

¹³⁸⁰ Transcript of Commander Stuart Bateson, 1 July 2019, 3331, TRN.2019.07.01.01.

number of individuals including Mark and Jason Moran and Pasquale Barbaro.¹³⁸¹

- 1070.4. He understood the obligation upon police to disclose relevant material beyond that relied upon by police in the brief of evidence, which included exculpatory matters such as material relating to the credibility of a witness whose credit was in issue.¹³⁸²
- 1070.5. He understood that police were obliged to respond to subpoenas and requests for disclosure¹³⁸³ and that if a claim for public interest immunity was to be made:
- it was appropriate to obtain legal advice concerning it¹³⁸⁴
 - it may involve the filing of a confidential affidavit to explain to the court the basis for the claim,¹³⁸⁵ or Mr Bateson giving evidence¹³⁸⁶
 - determination of a claim of PII was a matter for the court¹³⁸⁷
 - his process for making disclosure or responding to a subpoena was to go through his notes and redact entries with a black marker that were not relevant and entries that he considered could attract a claim for PII.¹³⁸⁸
- 1070.6. He understood the right to be represented by a legal representative who was independent of the police.¹³⁸⁹
- 1070.7. He understood the concept of a conflict of interest¹³⁹⁰ and that a conflict would arise where:
- a lawyer who was acting for an individual could not properly discharge their duties due to their previous representation of another individual¹³⁹¹
 - a lawyer was acting for an individual and also providing information to police about that individual.¹³⁹²
- 1070.8. He did not seek legal advice regarding whether Ms Gobbo was in a position of conflict in appearing at Mr Thomas' bail application.¹³⁹³

¹³⁸¹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 6 [27], VPL.0014.0027.0001 @.0006.

¹³⁸² Transcript of Commander Stuart Bateson, 2 July 2019, 3445, TRN.2019.07.02.01.

¹³⁸³ Transcript of Commander Stuart Bateson, 2 July 2019, 3413, TRN.2019.07.02.01.

¹³⁸⁴ Exhibit RC0269d Supplementary Statement of Commander Stuart Bateson, 17 November 2019, 16 [55] VPL.0014.0027.0020 @.0016; Transcript of Commander Stuart Bateson, 2 July 2019, 3373, TRN.2019.07.02.01.

¹³⁸⁵ Exhibit RC0269d Supplementary Statement of Commander Stuart Bateson, 17 November 2019, 16 [55] VPL.0014.0027.0020 @.0016.

¹³⁸⁶ Transcript of Commander Stuart Bateson, 2 July 2019, 3374, TRN.2019.07.02.01.

¹³⁸⁷ Transcript of Commander Stuart Bateson, 2 July 2019, 3420, TRN.2019.07.02.01.

¹³⁸⁸ Exhibit RC0269d Supplementary Statement of Commander Stuart Bateson, 17 November 2019, 16 [54] VPL.0014.0027.0020 @.0016.

¹³⁸⁹ Transcript of Commander Stuart Bateson, 21 November 2019, 9773-5, TRN.2019.11.21.01.

¹³⁹⁰ Transcript of Commander Stuart Bateson, 20 November 2019, 9668, TRN.2019.11.20.01.

¹³⁹¹ Transcript of Commander Stuart Bateson, 20 November 2019, 9655, TRN.2019.11.20.01.

¹³⁹² Transcript of Commander Stuart Bateson, 2 July 2019, 3450, TRN.2019.07.02.01.

¹³⁹³ Transcript of Commander Stuart Bateson, 20 November 2019, 9656, TRN.2019.11.20.01.

- 1070.9. Mr Bateson was involved in the arrests of Mr McGrath and Mr Andrews for the murder of Michael Marshall. He was aware of Ms Gobbo's representation of Mr McGrath from late 2003,¹³⁹⁴ and dealt with Ms Gobbo in relation to plea negotiations in 2004.¹³⁹⁵ He subsequently dealt with Ms Gobbo in 2005 and 2006 in relation to Mr Thomas assisting police in relation to the murder of Michael Marshall.¹³⁹⁶
- 1070.10. Ms Gobbo had been informing to him as an unregistered human source between March and September 2005.¹³⁹⁷
- 1070.11. He was aware that Ms Gobbo had acted on behalf of Mr Tony Mokbel about whom Ms Gobbo had provided information to Mr Bateson.¹³⁹⁸
- 1070.12. He was aware that Ms Gobbo had acted on behalf of Solicitor 2 about whom Ms Gobbo had previously provided information to Mr Bateson.¹³⁹⁹
- 1070.13. He was aware that Ms Gobbo was a registered human source from the time of her introduction to the SDU in September 2005.
- 1070.14. He was that Ms Gobbo was acting for Mr Thomas at the relevant time.¹⁴⁰⁰
- 1070.15. He was aware that in her capacity as a registered human source, Ms Gobbo was providing the police with information, including information concerning Mr Thomas.¹⁴⁰¹
- 1070.16. He was sanitizing his day book and/or diary entries in a manner designed to avoid disclosure of some communications with Ms Gobbo.¹⁴⁰²
- 1070.17. He was at the meeting where it was decided that the transcripts of meetings between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo.¹⁴⁰³
- 1070.18. He knew that Ms Gobbo continued to advise Mr Thomas whilst informing upon him.¹⁴⁰⁴
- 1070.19. He knew that Ms Gobbo would be used in order to assist Mr Thomas decide to 'roll'.¹⁴⁰⁵

¹³⁹⁴ Exhibit RC0269b Statement of Commander Stuart Bateson, 7 May 2019, 7 [34], VPL.0014.0027.0001 @.0007.

¹³⁹⁵ Transcript of Commander Stuart Bateson, 2 July 2019, 3362, TRN.2019.07.02.01.

¹³⁹⁶ Exhibit RC0269b Statement of Commander Stuart Bateson, 7 May 2019, 13 [78], 15 [88], VPL.0014.0027.0001 @.0013, .0015.

¹³⁹⁷ See Chapter 9, [25]–[26], [37]–[44], [54]–[59], [74]–[77], [83]– [84], [115]– [117], [146]–[147].

¹³⁹⁸ See Chapter 9 at [54] – [57], [96] – [98].

¹³⁹⁹ See Chapter 9 at [178].

¹⁴⁰⁰ Exhibit RC0281 ICR3838 (019), 19 February 2006, 158, VPL.2000.0003.1743; Exhibit RC0476 Transcript of meeting between Nicola Gobbo, James (Jim) O'Brien and Stuart Bateson, 23 March 2006, 81-84, VPL.0005.0062.0609 @.0692-.0693.

¹⁴⁰¹ Exhibit RC0272 Commander Stuart Bateson diary, 18 March 2006, 101, VPL.0005.0058.0233 @.0333.

¹⁴⁰² See [396]–[398], [455], [483], [502], [511], [536].

¹⁴⁰³ See [903] to [914] above.

¹⁴⁰⁴ Transcript of Commander Stuart Bateson, 21 November 2019, 9738-9, TRN.2019.11.21.01.

¹⁴⁰⁵ Exhibit RC0272 Commander Stuart Bateson diary, 19 April 2006, 113, VPL.0005.0058.0233 @.0345.

1071. **On the evidence, it is open to the Commissioner to find that between 16 September 2005 and about June 2007, Mr Bateson knew that:**
- 1071.1. **Ms Gobbo was a barrister and human source**
 - 1071.2. **Ms Gobbo had, as his legal representative, assisted in Mr McGrath's statement making process¹⁴⁰⁶**
 - 1071.3. **Ms Gobbo was informing on Mr Thomas while purporting to act for him**
 - 1071.4. **Ms Gobbo was actively assisting the Purana Taskforce at the relevant time**
 - 1071.5. **Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
 - 1071.6. **Mr Thomas was entitled to independent legal representation**
 - 1071.7. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Thomas**
 - 1071.8. **Victoria Police was using Ms Gobbo to encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so in circumstances where she was assisting Victoria Police**
 - 1071.9. **Ms Gobbo encouraged Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates in circumstances where she was assisting Victoria Police**
 - 1071.10. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Thomas or anyone Mr Thomas made statements against.**
1072. **Further, due to his involvement in the investigation and prosecution of people Mr Thomas implicated, it is open to the Commissioner to find that Mr Bateson was aware of the continued use of Ms Gobbo (who Mr Thomas understood to be his lawyer) as a human source against Mr Thomas in order to ensure that Mr Thomas continued to agree to implicate his criminal associates, in circumstances where Mr Bateson knew the matters at [1071.1] to [1071.10].**
1073. **On the evidence, it is open to the Commissioner to find that between about September 2005 and about June 2007, Mr Bateson, allowed, or alternatively did not prevent, Ms Gobbo representing Mr Thomas, in circumstances where he knew**

¹⁴⁰⁶ Footnote not used.

the matters at [1071.1] to [1071.10], together with the following matters:

- 1073.1. **his notes were to be sanitised regarding his communications with Ms Gobbo on behalf of Mr Thomas**
- 1073.2. **his notes were to be sanitised regarding Ms Gobbo's involvement in the process of Mr Thomas making statements¹⁴⁰⁷**
- 1073.3. **Ms Gobbo's influence over [REDACTED]**
- 1073.4. **Mr Thomas' 23 March 2006 discussions with Mr O'Brien and Mr Bateson at which Mr Thomas was assured of Ms Gobbo's honesty and was encouraged to, or alternatively not dissuaded from, using Ms Gobbo as his legal representative in the process of making admissions, entering a plea and implicating his associates.**
- 1074. **On the evidence, it is open to the Commissioner to find that on 8 September 2005, in the circumstances set out above, Mr Bateson:**
 - 1074.1. **knew that Ms Gobbo appeared for Mr Thomas in a Supreme Court bail application before Justice King¹⁴⁰⁸**
 - 1074.2. **knew at that time that Ms Gobbo had a conflict of interest between Mr McGrath and Mr Thomas**
 - 1074.3. **was aware at that time that Ms Gobbo had a conflict of interest between assisting Victoria Police and Mr Thomas¹⁴⁰⁹**
 - 1074.4. **would have known that Ms Gobbo deliberately concealed from Mr Thomas the weaknesses in the case against him that were within her knowledge, namely the circumstances in which Mr McGrath's statement came to be changed¹⁴¹⁰**
 - 1074.5. **knew that Ms Gobbo did not seek to use information in her possession that would strengthen Mr Thomas' case for bail to be granted**
 - 1074.6. **knew that Ms Gobbo did not cross-examine him, as the informant, as to the fact that the case against Mr Thomas relied only on the evidence of**

¹⁴⁰⁷ Exhibit RC0292 Mr Sandy White diary, 20 February 2006, 125, VPL.0100.0096.0468 @.0592.

¹⁴⁰⁸ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 8 September 2005, 23-24, VPL.0015.0001.0409 @.0431-.0432.

¹⁴⁰⁹ See, for example, [664] and [665] above, together with Ms Gobbo's conduct with members of the Purana Taskforce in relation to both Mr McGrath and Mr Thomas prior to 8 September 2005.

¹⁴¹⁰ Transcript of Ms Nicola Gobbo, 6 February 2020, 13360, TRN.2020.02.06.01.P.

- Mr McGrath or seeking to reveal how Mr McGrath's statement was prepared**
- 1074.7. **knew that Ms Gobbo did not make submissions that Mr McGrath had been untruthful**
- 1074.8. **would have been aware that not being granted bail would contribute to Mr Thomas being prepared to assist police and implicate his associates.**
1075. **On the evidence, it is open to the Commissioner to find that on 23 March 2006 Mr Bateson was party to discussions between Mr Thomas, Mr O'Brien and himself in which:**
- 1075.1. **Mr Bateson was aware that Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
- 1075.2. **Mr Bateson was aware that Mr Thomas was entitled to independent legal representation**
- 1075.3. **Mr Bateson was aware that Ms Gobbo was a barrister and human source**
- 1075.4. **Mr Bateson was aware that Ms Gobbo was not able to independently represent Mr Thomas**
- 1075.5. **Mr Bateson was aware that Ms Gobbo was serving the interests of Victoria Police**
- 1075.6. **Mr Bateson assured Mr Thomas of Ms Gobbo's honesty**
- 1075.7. **Mr Bateson encouraged Mr Thomas, or alternatively did not dissuade Mr Thomas from, using Ms Gobbo as his legal representative in the process of making admissions, entering a plea and implicating his associates**
- 1075.8. **Mr Thomas was not told that Ms Gobbo was an agent of Victoria Police**
- 1075.9. **Mr Thomas was deceived in a manner that was calculated to deprive him of independent legal representation**
- 1075.10. **The above conduct occurred with intention of the aim of obtaining evidence from Mr Thomas which could be relied upon in cases against Mr Thomas' associates who he implicated.**
1076. **On the evidence, it is open to the Commissioner to find that on 19 April 2006, Mr Bateson was aware of, and party to, a plan that the Purana Taskforce would no longer directly encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, rather, confidential transcripts of the discussions between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo, a**

human source who Mr Thomas believed to be his lawyer, in order for Ms Gobbo to encourage Mr Thomas in that regard.

Mr Sandy White

1077. The following evidence is relevant to an analysis of Mr Sandy White's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Thomas:

- 1077.1. During the relevant period, as a police member, Mr Sandy White was a public official.
- 1077.2. Mr Sandy White was personally involved in the meetings with his superiors and members of the Purana Taskforce concerning Ms Gobbo and Mr Thomas set out above.
- 1077.3. He understood disclosure obligations,¹⁴¹¹ how PII claims are made,¹⁴¹² the right to silence,¹⁴¹³ the right to be represented by a legal representative who was independent of the police,¹⁴¹⁴ that Ms Gobbo had various conflicts of interest,¹⁴¹⁵ but saw these as a matter for her.¹⁴¹⁶ He was aware Ms Gobbo would ignore the SDU advice not to involve herself with potential clients who may represent a conflict of interest.¹⁴¹⁷

1078. On the evidence, it is open to the Commissioner to find that between approximately 16 September 2005 and approximately June 2007, Mr Sandy White knew that:

- 1078.1. Ms Gobbo was a barrister and human source**
- 1078.2. Ms Gobbo had, as his legal representative, assisted in Mr McGrath's statement making process¹⁴¹⁸**
- 1078.3. Ms Gobbo was informing on Mr Thomas while purporting to act for him**
- 1078.4. Ms Gobbo was actively assisting the Purana Taskforce at the relevant time**

¹⁴¹¹ Transcript of Mr Sandy White , 30 July 2019, 3560, TRN.2019.07.30.01.C; Transcript of Mr Sandy White, 2 August 2019 3801, TRN.2019.08.02.01.C; Transcript of Mr Sandy White, 6 August 2019, 4034, TRN.2019.08.06.01.C.

¹⁴¹² Exhibit RC0275b Statement of Mr Sandy White, undated, 60-61 [260]-[261], COM.0019.0003.0001 @.0060-.0061; Transcript of Mr Sandy White, 2 August 2019 3801, TRN.2019.08.02.01.C; Transcript of Mr Sandy White, 31 July 2019, 3679; Exhibit RC0275b Statement of Mr Sandy White, undated, 60 [260], COM.0019.0003.0001 @.0060.

¹⁴¹³ Transcript of Mr Sandy White, 30 July 2019, 3561, TRN.2019.07.30.01.C.

¹⁴¹⁴ Transcript of Mr Sandy White, 30 July 2019, 3561-3562, TRN.2019.07.30.01.C.

¹⁴¹⁵ Transcript of Mr Sandy White, 31 July 2019, 3612, 3635, RC_MPI_31Jul19_provisional.

¹⁴¹⁶ Transcript of Mr Sandy White, 3682, RC_MPI_31Jul19_provisional.

¹⁴¹⁷ Exhibit RC0275b Statement of Mr Sandy White, undated, 45 [189], COM.0019.0003.0001 @.0045.

¹⁴¹⁸ See above at [804].

- 1078.5. **Mr Thomas was charged with a double murder and was facing a potential sentence of life imprisonment**
- 1078.6. **Mr Thomas was entitled to independent legal representation**
- 1078.7. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Thomas**
- 1078.8. **Victoria Police was using Ms Gobbo to encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so in circumstances where she was assisting Victoria Police**
- 1078.9. **Ms Gobbo encouraged Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates in circumstances where she was assisting Victoria Police**
- 1078.10. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Thomas or anyone Mr Thomas made statements against.**
1079. **On the evidence, it is open to the Commissioner to find that between about September 2005 and about June 2007, Mr Sandy White, allowed, or alternatively did not prevent, Ms Gobbo representing Mr Thomas, in circumstances where he knew the matters at [1078.1.1] to [1078.10].**
1080. **On the evidence, it is open to the Commissioner to find that on 19 and 20 April 2006, Mr Sandy White was aware of, and party to, a plan that the Purana Taskforce would no longer directly encourage Mr Thomas to make admissions, enter a plea of guilty and to implicate his associates, rather, confidential transcripts of the discussions between Mr O'Brien, Mr Bateson and Mr Thomas would be provided to Ms Gobbo, a human source who Mr Thomas believed to be his lawyer, in order for Ms Gobbo to encourage Mr Thomas in that regard.**

Misconduct of Mr Overland, Mr O'Brien, Mr Ryan, Mr Bateson and Sandy White

1081. **It is submitted that the respective conduct of each of the above current and former members of Victoria Police may have constituted:**
- 1081.1. **a breach of discipline under section 125 of the *Victoria Police Act 2013* (Vic), as conduct which was likely to bring Victoria Police into disrepute or diminish public confidence in it, or disgraceful**

Part 6 – Impact of Conduct related to Mr Thomas on Subsequent Cases

Statements Made by Mr Thomas

1085. In the end, Mr Thomas made some 20 statements for Victoria Police, implicating numerous of persons in criminal activity, as set out in the following table:

	Date	Subject matter	Persons implicated
1.	July 2006	Conspiracy to murder ██████████ ██████████ (unsigned) ¹⁴²⁴	██████████ ██████████ Person 16
2.	July 2006	██████████ ██████████ ██████████	██████████ ██████████
3.	15 July 2006	Jason Moran and Pasquale Barbaro murders ¹⁴²⁶	Carl Williams McGrath Andrews
4.	19 July 2006	Police corruption ¹⁴²⁷	Boris Belajev George Williams Carl Williams Paul Dale
5.	19 July 2006	Mark Moran murder ¹⁴²⁸	Carl Williams McGrath Dino Dibra
6.	19 July 2006	██████████	██████████
7.	19 July 2006	██████████	██████████
8.	19 July 2006	██████████	██████████ ██████████
9.	19 July 2006	██████████	██████████ ██████████ ██████████ ██████████
10.	19 July 2006	Drug trafficking ¹⁴³³	Milad Mokbel Tony Mokbel Horty Mokbel Carl Williams

¹⁴²⁴ Exhibit RC1638 Statement of Mr Thomas (unsigned), July 2006, RCMP.0028.0004.0001 @.0153-.0160.

¹⁴²⁵ Exhibit RC1638 Statement of Mr Thomas (unsigned), July 2006, RCMP.0028.0004.0001 @.0180-.0181.

¹⁴²⁶ Exhibit RC1642 Statement of Mr Thomas, 15 July 2006, RCMP.0028.0004.0001 @.0009-.0027.

¹⁴²⁷ Exhibit RC1637 Statement of Mr Thomas (unsigned), July 2006, RCMP.0028.0004.0001 @.0182-.0184; PND.019.001.0506.

¹⁴²⁸ Exhibit RC1643 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0028-.0037.

¹⁴²⁹ Exhibit RC1644 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0161-.0162.

¹⁴³⁰ Exhibit RC1645 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0041-.0043.

¹⁴³¹ Exhibit 1639 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0044-.0046.

¹⁴³² Exhibit 1646 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0047-.0062.

¹⁴³³ Exhibit RC1647 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0063-.0101.

			George Williams
11.	19 July 2006	██████████ Paul Kallipolitis murders ¹⁴³⁴	Andrew Veniamin Faruk Orman
12.	19 July 2006	██████████	██████████ ██████████
13.	19 July 2006	Victor Peirce ██████████ ██████████ murders ¹⁴³⁶	Andrew Veniamin Faruk Orman Mick Gatto Vince Benvenuto Steve Kaya
14.	20 July 2006	Mark Mallia murder ¹⁴³⁷	Carl Williams Andrew Veniamin Damien Cossu Hezir Firman
15.	29 May 2007	Second statement regarding knowledge of Victor Peirce murder ¹⁴³⁸	Andrew Veniamin Faruk Orman Mick Gatto Vince Benvenuto Steve Kaya
16.	1 August 2007	Photoboard statement identifying Photo 11 ¹⁴³⁹	Cooper Tony Mokbel
17.	17 March 2008	Third statement regarding Victor Peirce murder ¹⁴⁴⁰	Andrew Veniamin Faruk Orman Mick Gatto Vince Benvenuto Steve Kaya
18.	2 May 2008	Further statement regarding Paul Kallipolitis murder ¹⁴⁴¹	Andrew Veniamin Faruk Orman 'Ange'
19.	24 November 2008	Fourth Statement regarding Victor Peirce murder ¹⁴⁴²	Vince Benvenuto
20.	1 May 2009	Further statement regarding police corruption ¹⁴⁴³	Paul Dale Carl Williams

¹⁴³⁴ Exhibit RC1632 Statement of Mr Thomas (unsigned), 19 July 2006, RCMP.0028.0004.0001 @.0164-.0177.

¹⁴³⁵ Exhibit 1648 Statement of Mr Thomas, 19 July 2006, RCMP.0028.0004.0001 @.0178-.0179.

¹⁴³⁶ Exhibit RC0330 Statement of Mr Thomas (redacted), 19 July 2007, OPP.0002.0007.0200; Exhibit RC1633 Statement of Mr Thomas (unsigned), 19 July 2006, RCMP.0028.0004.0001 @.0117-.0122.

¹⁴³⁷ Exhibit RC1634 Statement of Mr Thomas (unsigned), 20 July 2006, RCMP.0028.0004.0001 @.0123-.0131.

¹⁴³⁸ Exhibit RC1635 Statement of Mr Thomas (unsigned), 29 May 2007, RCMP.0028.0004.0001 @.0185-.0194.

¹⁴³⁹ Exhibit RC1640 Statement of Mr Thomas, 1 August 2007, RCMP.0028.0004.0001 @.0195-.0196.

¹⁴⁴⁰ Exhibit RC1631 Statement of Mr Thomas (unsigned), 17 March 2008, RCMP.0028.0004.0001 @.0132-.0134.

¹⁴⁴¹ Exhibit RC0651 Statement of Mr Thomas (unsigned), 2 May 2008, RCMP.0028.0004.0001 @.0135-.0147.

¹⁴⁴² Exhibit RC1650 Typed statement of Mr Thomas, 24 November 2008, RCMP.0028.0004.0001 @.0148-.0149; Exhibit RC1651 Handwritten statement of Mr Thomas, 24 November 2008, RCMP.0028.0004.0001 @.0150-.0152.

¹⁴⁴³ Exhibit RC1641 Statement of Mr Thomas, 1 May 2009, MIN.0002.0001.1077.

Cases in which Convictions or Findings of Guilt were Obtained upon the Evidence of Mr Thomas

1086. According to information provided to the Commission by the OPP, the evidence of Mr Thomas was relied upon in the following cases in which convictions were obtained:¹⁴⁴⁴

Matter in which Mr Thomas' evidence relied upon (by reference to OPP matter ID number and related police operation)	Name of Accused	Dates accused was tried, found guilty and sentences	Court in which the matter was determined
0406071 (Operation MACAW/DOZER)	Carl Anthony WILLIAMS	Arraigned, pleaded guilty on 28.02.07 Plea Hearing: 27.04.07, 30.04.07 & 04.05.07 Sentenced: 07.05.07	Melbourne Supreme Court
0800596 (Operation MATCHLESS)	Milad MOKBEL	Arraigned, pleaded guilty on 15.06.11 Plea Hearing: 30.06.11 Sentenced: 22.07.11	Melbourne Supreme Court
0803500 (Operation MATCHLESS)	Jacques EL-HAGE	Arraigned, pleaded guilty on 08.07.11 Plea Hearing: 06.09.11 Sentenced: 20.09.11	Melbourne Supreme Court
0803443 (Operation ██████████)	██████████ ██████████	Arraigned, pleaded guilty on █████.01.12 Plea Hearing: █████.03.12 Sentenced: █████.03.12	Melbourne County Court
0703326 (Operation DECISION)	Faruk ORMAN	Found guilty by jury on 29.09.09 Plea Hearing: 13.11.09 Sentenced: 26.11.09	Melbourne Supreme Court

¹⁴⁴⁴ Source: Office of Public Prosecutions, Annexure A: Witnesses and related accused matter outcomes, 29 May 2020, OPP.0056.0001.0001.

CHAPTER 8 – 2004 TO 2005: PURANA FOCUS ON THE MOKBELS: THE INCEPTION OF OPERATION POSSE

13 April 2004 – Purana and MDID Meeting with Mokbel

1087. The Purana Taskforce had been established in May 2003. From that time, it had focused its attention on a spate of underworld or gangland killings.
1088. On 13 April 2004, a meeting took place between Detective Senior Constable Bartlett of the MDID, and Detective Senior Constable Martin Robertson of Purana, Mr Tony Mokbel and Mr Noble.
1089. As set out in Chapter 2, at the time Mr Tony Mokbel was facing State and Commonwealth drug charges arising out of Operations Kayak and Plutonium. These proceedings had been plagued by delays arising from the discovery of corrupt relationships between members of the Drug Squad involved in the investigation of Mr Tony Mokbel, [REDACTED].
1090. At the 13 April 2004 meeting, Mr Tony Mokbel attempted to broker a deal with police. In short, he offered that Messrs Cooper, Azzam Ahmed, Carl Williams and another associate would plead guilty to certain charges, they would go to prison for a short period, the gangland killings would stop and 'Homicide could say they won back the streets'. Mr Tony Mokbel said that if the deal was not accepted, he would '...drag on legal proceedings for years, there would be allegations made against everyone and he would push for a Royal Commission.'¹⁴⁴⁵
1091. After Mr Bartlett returned to the MDID office, Acting Detective Inspector Jim O'Brien, then OIC of the MDID, listened to an audio recording of the meeting. He noted in his diary, 'Obvious from the arrogance of Mokbel – he believes he is above the law and in control of Williams and others, is at the top of the tree in the drug distribution scene in Victoria.'¹⁴⁴⁶
1092. Mr O'Brien told the Commission that he was reinforced in his view that '...to get to the bottom of the murders you had to get to the bottom of the drugs and the money,'¹⁴⁴⁷ and that 'Tony Mokbel's attitude further motivated me to put a co-ordinated investigation plan together to unravel Mokbel's criminal enterprise.'¹⁴⁴⁸

¹⁴⁴⁵ Exhibit RC0314 Statement of Mr James (Jim) O'Brien, 14 June 2019, 8-9 [35], VPL.0014.0040.0001 @.0008-.0009.

¹⁴⁴⁶ Exhibit RC0314 Statement of Mr James (Jim) O'Brien, 14 June 2019, 9 [36], VPL.0014.0040.0001 @.0009.

¹⁴⁴⁷ Exhibit RC0314 Statement of Mr James (Jim) O'Brien, 14 June 2019, 9 [37], VPL.0014.0040.0001 @.0009.

¹⁴⁴⁸ Exhibit RC0314 Statement of Mr James (Jim) O'Brien, 14 June 2019, 9 [37], VPL.0014.0040.0001 @.0009.

9 June 2004 – Carl Williams Locked Up

1093. On 9 June 2004, the instigator of many of the gangland killings, Mr Carl Williams was arrested and remanded on a charge of [REDACTED] (at around the same time Mr Condello was charged with conspiracy to murder Mr Carl Williams). By that time, his preferred hitmen were also either dead or in custody. This largely brought a halt to the series of murders.¹⁴⁴⁹
1094. Recognising that disputes in the illegal commercial drug trade was the motive underlying the gangland murders, Purana turned its attention towards that trade. Following the 13 April 2004 meeting with Mr Tony Mokbel, a decision was made to investigate him and his family. It was also believed that Mr Tony Mokbel had knowledge and possible involvement in some of the murders and police corruption.¹⁴⁵⁰ During this period in 2004 a crew of drug investigators was brought over from MDID to join Purana.¹⁴⁵¹

The Inception of Operation Posse

1095. The name given to the investigation of the 'Mokbel cartel' was Operation Posse. Its inception and development can be seen below, including intelligence gathering by Purana analysts before a proposal for active investigation was developed and provided to Command for consideration:
- 1095.1. on 5 July 2004, at a Purana Taskforce progress meeting, the attendees discussed the preparation of an investigation plan into the Mokbel cartel's drug activities¹⁴⁵²
- 1095.2. on 12 July 2004, a Purana Taskforce weekly update meeting was convened, attended by Messrs Overland, Whitmore, Purton and Ryan.¹⁴⁵³ Mr Ryan made notes in advance of the meeting of matters to raise with Mr Overland which included:
- McGrath (Gobbo)*
- Mokbel decision to be made this week*
- Mokbel – co in Sydney*¹⁴⁵⁴
- 1095.3. an 8 November 2004 written 'Operation Purana Update' confirmed tasks included 'Profiles created concerning MOKBEL et al (Op. POSSE)'¹⁴⁵⁵
- 1095.4. a 15 November 2004 'Operation Purana Update' recorded:
- Ongoing intelligence gathering in relation to MOKBEL business interests. Members of analytical cell met with Op.*

¹⁴⁴⁹ Transcript of Mr Simon Overland, 16 December 2019, 11334 [37]–[42] RC_MPI_16Dec19_provisional; Exhibit RC1748 Operation Purana Update, 21 June 2004, VPL.0100.0012.0103.

¹⁴⁵⁰ Transcript of Mr Simon Overland, 16 December 2019, 11334 [37]–11335 [6], RCMPI_16Dec19_provisional.

¹⁴⁵¹ Exhibit RC0639 Purana Taskforce Crew List, 2003 and 2004, 3-4, VPL.0100.0045.0001 @.0003-.0004.

¹⁴⁵² Exhibit RC0109 Mr Terry Purton diary, 5 July 2004, 81, VPL.0005.0146.0001 @.0081.

¹⁴⁵³ Exhibit RC0109 Mr Terry Purton diary, 12 July 2004, 2, VPL.0005.0067.0005 @.0006.

¹⁴⁵⁴ Exhibit RC0312 Mr Gavan Ryan diary, 12 July 2004, VPL.0005.0148.0001 @.0009.

¹⁴⁵⁵ Exhibit RC0647 Operation Purana Update, 8 November 2004, VPL.0100.0012.0164.

*LORCHA members to discuss information sharing protocols.
(Op. POSSE)¹⁴⁵⁶*

1095.5. a 22 November 2004 'Operation Purana Update' recorded:

*Ongoing intelligence gathering in relation to MOKBEL
business interests. Monitoring of current court proceedings is
also taking place (Op. POSSE)¹⁴⁵⁷*

1095.6. a 28 January 2005 email from Mr Biggin to Mr Loomes (Mr Overland's Media Strategist), and copied to Messrs Purton and Overland, advised that Mr Tony Mokbel's committal proceedings in relation to Operation Kayak which were due to commence three days later and were expected to be a media event as Mr Tony Mokbel had indicated he would fight the charges and was basing his defence on Drug Squad corruption issues. The email noted that Mr Tony Mokbel was represented by Mr Heliotis and Ms Gobbo and opined that Mr Tony Mokbel would also be paying for the representation of his co-accused¹⁴⁵⁸

1095.7. between March 2005 and May 2005, Operation Purana updates continued to focus on intelligence gathering concerning the Mokbel cartel, including matters related to gambling and money laundering¹⁴⁵⁹

1095.8. on 16 May 2005, a document was presented to Command at the Purana Taskforce weekly briefing which compiled and assessed intelligence relating to the Mokbel cartel and proposed that the Operation Posse investigation be conducted along the lines of a Taskforce.¹⁴⁶⁰

1096. This document, entitled 'Operation Posse: Operational Assessment into the Mokbel Criminal Cartel' (Posse Operational Assessment),¹⁴⁶¹ dated 9 April 2005, was later used by Mr O'Brien in developing the Operation Posse investigation plan following Ms Gobbo's registration in September 2005.

¹⁴⁵⁶ Exhibit RC1748 Operation Purana Update, 15 November 2004, VPL.0100.0012.0159.

¹⁴⁵⁷ Exhibit RC1748 Operation Purana Update, 22 November 2004, VPL.0100.0012.0160.

¹⁴⁵⁸ Exhibit RC1690 Email from Mr Anthony (Tony) Biggin to Police Officer 1, 28 January 2005, VPL.0099.0113.0742.

¹⁴⁵⁹ See Purana updates regarding the AFP providing Victoria Police with intelligence concerning Mr Mokbel and an intelligence assessment regarding Mr Mokbel being prepared at Exhibit RC1748 Operation Purana Update, 7 March 2005, VPL.0100.0012.0127; See Purana updates regarding a meeting with Racing Victoria concerning the possibility of Operation Posse targets money laundering at Victorian racetracks at Exhibit RC1748 Operation Purana Update, 14 March 2005, VPL.0100.0012.0122; See Purana updates regarding a continuing intelligence assessment into Mr Mokbel at Exhibit RC1748 Operation Purana Update, 4 April 2005, VPL.0100.0012.0001; Exhibit RC1748 Operation Purana Update, 11 April 2005, VPL.0100.0012.0002; See Purana updates regarding Operation Posse's intelligence assessment of the activities of the Mokbel criminal cartel with potential targets being profiled at Exhibit RC1748 Operation Purana Update, 18 April 2005, VPL.0100.0012.0002; See Purana updates concerning further profiling of potential targets of Operation Posse at Exhibit RC1748 Operation Purana Update, 24 April 2005, VPL.0100.0012.0002; Exhibit RC1748 Operation Purana Update, 2 May 2005, VPL.0100.0012.0142; Exhibit RC0932 Operation Purana Update, 9 May 2005, VPL.0100.0012.0145; See Purana update concerning a draft assessment for Operation Posse which had been "submitted for consideration" at Exhibit RC0775 Operation Purana Update, 16 May 2005, VPL.0100.0012.0141.

¹⁴⁶⁰ Exhibit RC0775 Operation Purana Update, 16 May 2005, VPL.0100.0012.0141.

¹⁴⁶¹ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, VPL.0100.0013.3276.

1097. The Posse Operational Assessment proposed the targeting of Mr Tony Mokbel, his family and associates, with a view to 'dismantling their operations or making it impossible for them to operate.'¹⁴⁶² The assessment included the following:

1097.1. intelligence in relation to Tony Mokbel including historical criminal involvement and police investigations

1097.2. intelligence in relation to the Mokbel family and their associates

1097.3. intelligence on the Mokbel family assets, business interests and financial affairs

1097.4. intelligence on accountants and legal representatives used by the Mokbels, including the following entry in respect of Ms Gobbo:

GOBBO, Nicola –

GOBBO had indicated that she would be appearing with [REDACTED] however, due to other factors found she was not able to attend and passed the brief onto HELIOTIS.

GOBBO appeared with HELIOTIS the committal proceedings regarding charges brought by the Drug Squad as a result of Operation KAYAK (sic)

GOBBO admitted to investigators that she was facing financial difficulties due to some of her more high profile clients not paying their bills.¹⁴⁶³

1097.5. intelligence on current criminal activity which included reference to an AFP operation, Mr Tony Mokbel's likely involvement in matters investigated by Purana Taskforce in Operation Kolos relating to offending by Messrs Carl and George Williams, and the recently commenced investigation by the MDID of Operation Sages¹⁴⁶⁴

1097.6. the suggested structure of Operation Posse being along the lines of a Taskforce, including teams led by Detective Senior Sergeants, and financial investigators¹⁴⁶⁵

1097.7. the suggestion that a legal officer be attached to the investigation:

It is further suggested that a legal officer be attached to the task force to respond to matters that require professional advice. This person will also be the liaison point between the task force and Office of Public Prosecutions and would be able to provide briefings to legal counsel as and when

¹⁴⁶² Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 5, VPL.0100.0013.3276 @.3280.

¹⁴⁶³ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 44-45, VPL.0100.0013.3276 @.3319-.3320.

¹⁴⁶⁴ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 62-63, VPL.0100.0013.3276 @.3337-3338.

¹⁴⁶⁵ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 66, VPL.0100.0013.3276 @.3341.

*required. Similarly, this person would form part of the support cell.*¹⁴⁶⁶

- 1097.8. the acknowledgement of [REDACTED] forming part of the investigation, requiring control by an investigator and the maintenance of a close relationship [REDACTED].¹⁴⁶⁷
- 1097.9. the envisaging of complaints being made in relation to the investigation to the ESD or the Office of Police Integrity (OPI), and noting that whilst at all times it was expected that members would operate within the confines of the law, that the Assistant Commissioner of the ESD and the Ombudsman and OPI be apprised of the investigation in the broadest terms 'so that necessary measures can be adopted at an early stage'¹⁴⁶⁸
- 1097.10. concluding remarks:

The reputation of Victoria Police and other law enforcement bodies will rest on the outcomes of this operation. Should the operation fail then the Mokbels, as well as other criminal cartels such as Italian organised crime identities will continue to run rampant in the belief that they are able to outsmart the police. The operation will not be quick, nor will it be cheap. If Victoria Police and the State government do not provide full backing for the intended operation then any hope of success will be limited.

*Flexibility will be the key to success. Being capable of responding quickly to changing circumstances will be essential. The investigation needs to be able to think outside the box to come up with innovative and perhaps novel ways for the investigation to continue.*¹⁴⁶⁹

Later Use of the Posse Operational Assessment

1098. Initially, when Ms Gobbo presented herself as a potential human source to his crew, Mr O'Brien as OIC of MDID, considered Ms Gobbo would be used in relation to MDID Operation Quills, an investigation being conducted by the MDID at the time. He recorded a discussion with Mr Overland in his diary on 12 September 2005, when he was also performing temporary duties as the OIC at Purana:

S/T A/C Overland re TF Purana Update per sheet, discussion re solicitor Nicola Gobbo and opportunities re Op Quills ...

1099. Following the commencement of debriefs of Ms Gobbo on 16 September 2005, as the extent and wealth of information she possessed came to be appreciated, the plans for her use by Victoria Police grew accordingly.

¹⁴⁶⁶ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 66, VPL.0100.0013.3276 @3341.

¹⁴⁶⁷ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 66, VPL.0100.0013.3276 @.3341.

¹⁴⁶⁸ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 71, VPL.0100.0013.3276 @.3346.

¹⁴⁶⁹ Exhibit RC0314 "Operation Posse: Operational Assessment into the Mokbel Criminal Cartel", prepared by Intelligence Cell, Operation Purana, April 2005, 72, VPL.0100.0013.3276 @3347.

1100. Mr O'Brien was transferred to Purana, and Operation Posse was transitioned from an analytical exercise to an active investigation. In developing his Operation Posse investigation plan, which he sent to Mr Overland for authorisation in October 2005, Mr O'Brien had regard to the Posse Operational Assessment.
1101. The desired 'flexibility', thinking 'outside the box' and developing 'innovative and perhaps novel ways for the investigation to continue' were very much realised in the registration of a practising barrister to inform against her clients, including against Mr Tony Mokbel himself.
1102. Despite the recommendation by the Posse Operational Assessment, no legal officer was attached to the investigation. No legal advice obtained bearing upon the use of Ms Gobbo as a human source until 2011. That was after her de-registration and well after the commencement and finalisation of many proceedings potentially affected by her use.
1103. **On the evidence, it is open to the Commissioner to find that had a legal advisor been attached to the Purana Taskforce, or otherwise approached by Victoria Police, and consulted as to the possible use of Ms Gobbo as a human source when that possibility arose, it is unlikely that Ms Gobbo would have been registered or used as a human source from September 2005.**

CHAPTER 9 - 2005: PURANA INTEREST IN SOLICITOR 2 & GOBBO INFORMING TO BATESON

Introduction

1104. As will be recalled, in 2003 Ms Gobbo had been seen as being aligned with Mr Carl Williams and his criminal associates. This was not only the perception of organised crime figures, it was the view of the police. During that year the Purana Taskforce had cause, on a number of occasions to make enquiries or seek surveillance in relation to Ms Gobbo.
1105. It perhaps came as a surprise and was viewed with some scepticism when Ms Gobbo began negotiating with the Purana Taskforce in relation to the co-operation of Mr McGrath in March 2004. As Ms Gobbo put it herself when later speaking with the SDU, she had been regarded by the Purana Taskforce as a 'stooge' for Mr Carl Williams and Mr Tony Mokbel and had striven to 'turn' Mr McGrath to prove a point.¹⁴⁷⁰
1106. The Purana Taskforce held similar views of Solicitor 2, a criminal solicitor who came to represent organised crime figures including Mr Mokbel¹⁴⁷¹ and Mr Carl Williams. In 2004 she also became a focus of attention for the Purana Taskforce.
1107. Ms Gobbo had from 2002 developed a close relationship with Mr Mokbel. She told the Commission that she derived 'some self-importance and some feeling that [she] was ... relevant or validated by reason of being wanted by people like Tony.'¹⁴⁷²
1108. In October or November of 2004, Solicitor 2's relationship with Mr Mokbel became closer, and consequently meant Mr Mokbel began spending less time with Ms Gobbo.¹⁴⁷³ Ms Gobbo was not happy with this development,¹⁴⁷⁴ and by March 2005, it seems that there was a degree of animosity felt by Ms Gobbo towards Solicitor 2 (see below).
1109. It is probably not coincidental that around this time Ms Gobbo commenced to provide information to police about Solicitor 2, who nonetheless also became her client later in the year. The information provided to police was often also adverse to the interests of other clients of Ms Gobbo, including Mr Mokbel and Mr George Williams.
1110. On top of this motivation, was a desire by Ms Gobbo, facilitated by the police, to continue to conceal her role in representing Mr McGrath, who became a witness against Mr Carl Williams, Mr Andrews and Mr Thomas.

¹⁴⁷⁰ Exhibit RC0267 Transcript of conversation between Gobbo, Sandy White, Peter Smith, Rowe and Mansell, 16 September 2005, 19-24, VPL.0005.0037.0014 @.0032-.0037.

¹⁴⁷¹ In this Chapter, unless stated otherwise, Mr Mokbel refers to Mr Tony Mokbel.

¹⁴⁷² Transcript of Ms Nicola Gobbo, 6 February 2020, 13296.

¹⁴⁷³ Exhibit RC0500 Transcript of meeting between Mr Peter Smith, Mr Malachite and Ms Gobbo, 2 February 2006, 45-46, 74-75, 79-80, VPL.0005.0051.0871 @.0915-.0916, .0944-.0945, .0949-.0950.

¹⁴⁷⁴ Transcript of Ms Nicola Gobbo, 6 February 2020, 13297.

Solicitor 2 was representing Mr Carl Williams and Mr Andrews. Ms Gobbo was representing Mr Thomas.

First Investigation of Solicitor 2 by Purana

Mid-2004 – First Indication of Interest

1111. As referred to earlier in these submissions, the Purana Taskforce was overseen by an Executive Management Team comprising Assistant Commissioner Crime Overland, Commander of Crime Purton, and Superintendent Whitmore. They met weekly and received written and verbal updates.
1112. In mid-2004, the Purana Taskforce weekly written updates began referring to Solicitor 2.
1113. On 28 June 2004, the Purana Taskforce update referred to Solicitor 2 as being a person of interest who was examined at the then ACC.¹⁴⁷⁵
1114. On 30 August 2004, the Purana Taskforce written update reported that:
- 1114.1. Solicitor 2 had conducted professional visits upon Mr Carl Williams, Mr Terence Chimirri and Mr Kevin Faruggia on 26 August 2004
 - 1114.2. Mr Chimirri was overheard asking Solicitor 2 about Mr Thomas (who had recently been arrested)
 - 1114.3. Mr Carl Williams told Solicitor 2 that he would give her a watch that had been seized by Purana
 - 1114.4. Mr Carl Williams and Solicitor 2 were obviously communicating via written notes because there were [REDACTED]
 - 1114.5. Solicitor 2 was becoming a nuisance, and nothing could be done about it. A loophole that in effect allowed a solicitor to visit any prisoner so long as he agreed, was being worked on.¹⁴⁷⁶
1115. The above information indicates that communications between Solicitor 2 and those she was speaking to were able [REDACTED] and were being reported to Purana.¹⁴⁷⁷

4 October 2004 – Purana Commences Criminal Investigation into Solicitor 2

1116. On 4 October 2004, the Purana Taskforce update recorded that investigations had commenced into a number of people, including Solicitor 2 for incitement to murder Mr Mario Condello.¹⁴⁷⁸ Further, the update recorded that the Purana Analytical Cell was compiling a profile on Solicitor 2.¹⁴⁷⁹

¹⁴⁷⁵ Exhibit RC0932F, Operation Purana Update, 28 June 2004, VPL.0100.0012.0107.

¹⁴⁷⁶ Exhibit RC0932H, Operation Purana Update, 30 August 2004, VPL.0100.0012.0019.

¹⁴⁷⁷ Transcript of Simon Overland, 15 December 2019, 11405–11406.

¹⁴⁷⁸ Exhibit RC0646B, Operation Purana Update, 4 October 2004, VPL.0100.0012.0171.

¹⁴⁷⁹ Exhibit RC0646B, Operation Purana Update, 4 October 2004, VPL.0100.0012.0171.

1117. On 8 November 2004, the Purana Taskforce update recorded that it was anticipated that telephone intercept warrants would be obtained against Solicitor 2 that week.¹⁴⁸⁰

February to March 2005 – Consideration of False Evidence Charges against Solicitor 2

1118. On 28 February 2005, the Purana Taskforce weekly update recorded that the Purana Taskforce was in discussions with the ACC as to whether Solicitor 2 might be charged for giving false evidence at her ACC hearing the previous year.¹⁴⁸¹
1119. By 14 March 2005, the Purana Taskforce update recorded that their 'ACC crew' was involved in preparing the brief of evidence against Solicitor 2 in relation to those matters.¹⁴⁸²

29 April – 2 May 2005 – Information about Solicitor 2 Abusing Phone Privileges

1120. On 29 April 2005, Mr Bateson received information from Corrections Victoria indicating that Solicitor 2 was using her legal status to facilitate telephone calls with Mr Carl Williams' associates.¹⁴⁸³
1121. On 2 May 2005, Detective Senior Constable Michelle Kerley, a member of Mr Bateson's crew, spoke to Corrections Victoria about Solicitor 2 diverting prison calls through her office and that the prison considered that Solicitor 2 was a security risk.¹⁴⁸⁴
1122. On the same day, Ms Gobbo recorded in her diary '430 Solicitor 2 ACC'.¹⁴⁸⁵ The reason for this is not clear.

9 & 10 May 2005 – Solicitor 2 Charged by Purana

1123. On 9 May 2005, the Purana Taskforce weekly update reported that Solicitor 2 would be arrested following investigations into the evidence she gave at the ACC.¹⁴⁸⁶
1124. On 10 May 2005, Solicitor 2 was arrested and was charged with four counts of giving false evidence to the ACC and one count of possessing an unregistered handgun.¹⁴⁸⁷ The charges against Solicitor 2 were withdrawn prior to trial in 2008.

¹⁴⁸⁰ Exhibit RC0647B, Operation Purana Update, 8 November 2004, VPL.0100.0012.0164.

¹⁴⁸¹ Exhibit RC0932J, Operation Purana Update, 28 February 2005, VPL.0100.0012.0059.

¹⁴⁸² Exhibit RC1748 Operation Purana Update, 14 March 2005, VPL.0100.0012.0122.

¹⁴⁸³ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 19, VPL.0015.0001.0409 @.0427; Exhibit RC0272 Commander Stuart Bateson diary, 29 April 2005, 10, VPL.0005.0058.0233 @.0242.

¹⁴⁸⁴ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 19, VPL.0015.0001.0409 @.0427; Exhibit RC1551 Acting Senior Sergeant Michelle Kerley diary, 2 May 2005, 35, VPL.0005.0134.0001 @.0035.

¹⁴⁸⁵ Exhibit RC0273 Ms Nicola Gobbo diary and court books, 21 April 2005, 4, MIN.0001.0014.0526 @.0549.

¹⁴⁸⁶ Exhibit RC0932L Operation Purana Update, 9 May 2005, VPL.0100.0012.0145.

¹⁴⁸⁷ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 19, VPL.0015.0001.0409 @.0427; Exhibit RC0932L Operation Purana Update, 9 May 2005, VPL.0100.0012.0145.

1125. The latter charge related to an allegation that Solicitor 2 sought to dispose of a handgun belonging to her recently deceased partner, [REDACTED], who was murdered on 8 May 2004. It was alleged that Solicitor 2 handed the firearm [REDACTED]. Solicitor 2 denied the allegations in hearings at the ACC.¹⁴⁸⁸
1126. Solicitor 2 was charged by Detective Senior Constable Marr of the Purana Taskforce. Ms Kerley was also involved in the arrest. She noted in her diary that when Solicitor 2 was arrested, she called Mr Heliotis. When he was not available, she called Ms Gobbo and requested that she meet her at St Kilda Road Police Station.¹⁴⁸⁹
1127. Mr Bateson recalled the charging of Solicitor 2, but said he was not sure whether he had been aware that Ms Gobbo attended to advise her upon the arrest.¹⁴⁹⁰

Gobbo Involvement in Purana Matters

23 March 2005 – Gobbo Thanks Bateson for Concealing Her Assistance to Purana

1128. On 23 March 2005, Ms Gobbo rang Mr Bateson to thank him for keeping her name out of the committal hearing, referring to the committal of Mr Carl Williams, Mr Thomas and Mr Andrews for the murder of Jason Moran and Pasquale Barbaro.
1129. During the call, Ms Gobbo also told Mr Bateson that:
- 1129.1. Solicitor 2 had been 'bad mouthing' her to Mr Williams and others
 - 1129.2. Barrister 1 would not attend court if he was not paid
 - 1129.3. none of the barristers involved in the committal could be trusted and that any approaches to potential witnesses should not be made through them.¹⁴⁹¹

18 to 26 April 2005 – Gobbo & Solicitor 2 Representation of Carl & George Williams

1130. Between 21 and 26 April 2005, committal proceedings took place for Mr Carl Williams, Mr George Williams and Mr Dennis Reardon in relation to charges arising out of a Purana Investigation known as Operation Droil.¹⁴⁹²
1131. Mr Carl Williams and Mr George Williams were both charged with trafficking in a large commercial quantity of amphetamine and money laundering offences. The investigation was conducted by members seconded to the Purana Taskforce from the MDID and Major Fraud Investigation Division

¹⁴⁸⁸ Exhibit RC0771B Confidential unsworn affidavit prepared by Mr Nigel L'Estrange, 22 August 2005, 4, VPL.6024.0200.8553 @.8556.

¹⁴⁸⁹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, event from diary of Michelle Kerley, 10 May 2005, 19, VPL.0015.0001.0409 @.0427.

¹⁴⁹⁰ Transcript of Commander Stuart Bateson, 2 July 2019, 3434.

¹⁴⁹¹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 18, VPL.0015.0001.0409 @.0426; Exhibit 272 Commander Stuart Bateson diary, 23 March 2005, 136-7, VPL.0005.0058.0706 @.0841-.0842.

¹⁴⁹² Exhibit RC1748 Operation Purana Update, 18 April 2005, VPL.0100.0012.0003.

(MFID).¹⁴⁹³ Detective Sergeant Craig Wilson of the MFID had oversight of the fraud aspects of Operation Droil.¹⁴⁹⁴

1132. Ms Gobbo, led by Barrister 1, represented both Messrs Carl and George Williams. They were instructed by Solicitor 2. Ms Gobbo's fee book indicates that she charged \$14,000 for her work on 28 April 2005.¹⁴⁹⁵

16 May 2006 – Operation Posse: Assessment into the Mokbel Criminal Cartel

1133. From 2004 the Analytical Cell of the Purana Taskforce had been gathering intelligence in relation to a potential future investigation into Mr Mokbel, and his family and associates. This culminated in a document titled 'Operational Assessment into Mokbel Criminal Cartel'.¹⁴⁹⁶

1134. On 16 May 2005, the document was presented to Command at the Purana weekly briefing. The proposal called for significant resourcing of an investigation into Mr Mokbel and others, to be conducted along the lines of a taskforce. The document referred to both Ms Gobbo and Solicitor 2 as legal representatives of Mr Mokbel.

1135. These matters are dealt with further in Chapter 8.

20 to 23 May 2005 – Flynn's Early Dealings with Ms Gobbo about Mr Cooper

1136. In March 2005, Ms Gobbo appeared for Mr Cooper at his committal for serious drug related charges arising out of MDID operations Landslip and Matchless. The committal concluded early when Mr Cooper indicated an intention to plead guilty. During that time, Ms Gobbo, Mr Cooper ██████████ ██████████ had coffee with Mr Flynn. Mr Cooper's matter had been adjourned to a hearing at the County Court on 27 May 2005.¹⁴⁹⁷

1137. On 20 May 2005, Ms Gobbo spoke with MDID Detective Sergeant Dale Flynn in order to negotiate a plea for Mr Cooper. She discussed his circumstances including certain health issues. Mr Flynn said he would have to discuss the matter with his managers (Mr O'Brien) and the OPP.¹⁴⁹⁸

1138. On 23 May 2005, Mr Flynn spoke with Ms Gobbo. During this conversation she told him that Mr Cooper was considering providing assistance as part of a plea deal. Mr Flynn noted he was 'doubtful' because he did not think it was a genuine offer at that stage.¹⁴⁹⁹

1139. Despite this he was interested in potential co-operation from Mr Cooper as he was aware that he would have information in relation to the involvement

¹⁴⁹³ Exhibit RC0273 Ms Nicola Gobbo diary and court books, 21 April 2005, 7, MIN.0001.0011.0002 @.0007.

¹⁴⁹⁴ Exhibit RC1877 Transcript of Committal of Carl and George Williams, 20 April 2005, 314, VPL.6122.0200.1375 @.1460

¹⁴⁹⁵ Exhibit RC1568 Ms Nicola Gobbo fee book 01, 28 April 2005, 87, MIN.5000.7000.0001 @.0087.

¹⁴⁹⁶ Exhibit RC0314 Victoria Police, 'Operation Posse Operational Assessment into the Mokbel Criminal Cartel', April 2005, VPL.0100.0010.1743.

¹⁴⁹⁷ Exhibit RC0538B Statement of Inspector Dale Flynn, 17 June 2019, 4 [24]-[25], VPL.0014.0042.0001 @.0004; Exhibit RC0560 Inspector Dale Flynn diary, 20 May 2005, 36, VPL.0100.0170.0012 @.0047.

¹⁴⁹⁸ Transcript of Inspector Dale Flynn, 20 September 2019, 6684.

¹⁴⁹⁹ Exhibit RC0560 Inspector Dale Flynn diary, 23 May 2005, VPL.0010.0007.0001 @.0037; Transcript of Inspector Dale Flynn, 20 September 2019, 6684 [37]-[46].

of the Mokbel family in serious drug offences.¹⁵⁰⁰ Mr Flynn told the Commission that it did not cross his mind that Ms Gobbo was acting for Mr Mokbel at the time she was indicating that Mr Cooper might be prepared to co-operate.¹⁵⁰¹

19 to 22 May 2005 – Lead Up to Gobbo Meeting with Bateson

1140. On 19 May 2005, Mr Bateson received a telephone call from Ms Gobbo who requested to speak with him in relation to a 'confidential matter' and they arranged to meet the following afternoon.¹⁵⁰² Ms Gobbo referred to Solicitor 2 and commented in parting that it was 'hard to get paid by someone who did not have a trust account'.¹⁵⁰³ Mr Bateson advised Divisional District Inspector Gavan Ryan, OIC of the Purana Taskforce, of the conversation.

1141. The next day, they spoke again, and arranged to meet the day after.

1142. On 22 May 2005, Ms Gobbo spoke to Mr Bateson again.¹⁵⁰⁴ Ms Gobbo apologised for not meeting the previous day. Ms Gobbo raised two matters during the conversation:

1142.1. the committal of Mr Carl Williams for the murder of Mr Mark Moran, which was due to commence on 24 May 2006. She was concerned that Detective Senior Constable Mark Hatt would be cross-examined about the process by which Mr McGrath's first two statements were taken, which might reveal her involvement. As detailed in Chapter 7, Mr Hatt had brought copies of Mr McGrath's statements to Ms Gobbo's chambers for her to read prior to their signing. The statements were then changed by Mr McGrath following a visit by Ms Gobbo which had been facilitated by the Purana Taskforce

1142.2. she had information about Solicitor 2 that she wished to pass on.

1143. Mr Bateson arranged to meet with Ms Gobbo the following day.¹⁵⁰⁵

¹⁵⁰⁰ Transcript of Inspector Dale Flynn, 20 September 2019, 6685 [34]–[41]; Exhibit RC0560 Inspector Dale Flynn diary, 20 May 2005, VPL.0100.0170.0012 @.0047.

¹⁵⁰¹ Transcript of Inspector Dale Flynn, 20 September 2019, 6686 [9]–[15].

¹⁵⁰² Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 19, VPL.0015.0001.0409 @.0427; Exhibit RC0272 Commander Stuart Bateson diary, 19 May 2005, VPL.0005.0058.0233 @.0249-0250.

¹⁵⁰³ Exhibit RC0272 Commander Stuart Bateson diary, 19 May 2005, VPL.0005.0058.0233 @.0249-0250.

¹⁵⁰⁴ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 20, VPL.0015.0001.0409 @.0428; Exhibit RC0272 Commander Stuart Bateson diary, 22 May 2005, 19, VPL.0005.0058.0233 @.0251.

¹⁵⁰⁵ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 20, VPL.0015.0001.0409 @.0428; Exhibit RC0272 Commander Stuart Bateson diary, 22 May 2005, 19, VPL.0005.0058.0233 @.0251.

23 May 2005 – Gobbo Meeting with Bateson (No.1)

1144. On 23 May 2005, Mr Bateson met with Ms Gobbo at the Emerald Hotel in South Melbourne, where they spoke for around 50 to 60 minutes.¹⁵⁰⁶ During the meeting, Ms Gobbo told Mr Bateson the following information:¹⁵⁰⁷
- 1144.1. Barrister 1 was still owed money but it was likely to be paid in the next few weeks
 - 1144.2. Solicitor 2 was doing a lot of legal work for free
 - 1144.3. Solicitor 2 was 'no doubt providing a messaging service between Mr Williams and those on the outside, including Mr Antonios 'Tony' Mokbel who had been attending Solicitor 2's office to speak with Mr Williams using a legal professional privilege call'
 - 1144.4. Solicitor 2 was not using a trust account, which Ms Gobbo said was contrary to the Legal Practice Act. Ms Gobbo said Solicitor 2 was doing this so any funds would not be restrained.
1145. Mr Bateson informed Mr Ryan of his communications with Ms Gobbo.¹⁵⁰⁸
1146. On 23 May 2005, Ms Gobbo recorded 'Solicitor 2 – R Bar' in her diary.¹⁵⁰⁹ Ms Gobbo gave evidence to the Commission that Mr Bateson made it clear to her that he was particularly interested in Solicitor 2. Ms Gobbo said that she would have told him anything he wanted to know.¹⁵¹⁰
1147. Mr Bateson recorded in the chronology he prepared for the Commission that Ms Gobbo had represented Solicitor 2 on 10 May 2005 when she was arrested, however in his evidence he said that he could not remember whether he knew that at the time.¹⁵¹¹ Mr Bateson said that even if he did know that Ms Gobbo was acting for Solicitor 2, she had not gathered the information about her under the guise of legal instructions.¹⁵¹²

Coghlan Investigation into the Mokbel's Assets

Background

1148. In 2000, Mr Jim Coghlan¹⁵¹³ had been seconded from the Asset Recovery Squad to work on Taskforce Kayak.¹⁵¹⁴ His role was to identify Mr Mokbel's tainted assets so they could be restrained and ultimately confiscated. Mr

¹⁵⁰⁶ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 20, VPL.0015.0001.0409 @.0428; Exhibit RC0272 Commander Stuart Bateson diary, 23 May 2005, 19, VPL.0005.0058.0233 @.0251.

¹⁵⁰⁷ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 20, VPL.0015.0001.0409 @.0428; Exhibit RC0272 Commander Stuart Bateson diary, 23 May 2005, 19, VPL.0005.0058.0233@.0251; Transcript of Ms Nicola Gobbo, 6 February 2020, 13297[40]–13298[44].

¹⁵⁰⁸ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 20, VPL.0015.0001.040 @.0439; Exhibit RC0272 Commander Stuart Bateson diary, 23 May 2005, 19, VPL.0005.0058.0233@.0251; Transcript of Mr Gavan Ryan, 9 August 2019, 4250 [33]–4251 [17].

¹⁵⁰⁹ Exhibit RC0273 Ms Nicola Gobbo diary and court books, 21 April 2005, 27, MIN.0001.0014.0526 @.0552.

¹⁵¹⁰ Transcript of Ms Nicola Gobbo, 6 February 2020, 13298 [39]–[44].

¹⁵¹¹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 19, VPL.0015.0001.0409 @.0417; Transcript of Commander Stuart Bateson, 2 July 2019, 3434 [27]-[36].

¹⁵¹² Transcript of Commander Stuart Bateson, 2 July 2019, 3435 [2]-[8].

¹⁵¹³ Hereafter referred to as Mr Coghlan.

¹⁵¹⁴ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [4], VPL.0014.0086.0001.

Coghlan was assisted at the time by then Detective Senior Constable Jeff Pope.¹⁵¹⁵ Following Mr Mokbel's arrest in 2001, Mr Coghlan made an application for a global restraining order over all of Mr Mokbel's property, pursuant to the *Confiscation Act 1997* (Vic). The order referred to certain real property which had been identified, and also extended to all other property, including property acquired after the making of the order.¹⁵¹⁶

1149. Ms Gobbo began representing Mr Mokbel with respect to his drug charges in 2001 or 2002.¹⁵¹⁷ Following his arrest, Mr Mokbel made a number of bail applications, which were ultimately successful.¹⁵¹⁸ Mr Coghlan's first interaction with Ms Gobbo was at such a court hearing.¹⁵¹⁹
1150. Corruption issues within the Drug Squad meant that Mr Mokbel's trial proceedings were delayed.¹⁵²⁰ The order remained on Mr Mokbel's property while those corruption issues were being investigated.
1151. Through to 2005, Mr Mokbel made a number of applications to exclude property from the restraining order, which were opposed by Victoria Police. Ms Gobbo represented Mr Mokbel as junior counsel in relation to those matters.¹⁵²¹
1152. Mr Coghlan was not satisfied that Victoria Police had identified and adequately restrained all of Mr Mokbel's property interests.¹⁵²² He continued to investigate and identify further property in which Mr Mokbel had an interest. Mr Coghlan told the Commission that he was discouraged from doing so because there was a fear that it might be used as evidence of Victoria Police being vindictive, or as means of further delaying his trial.¹⁵²³ In spite of this, Mr Coghlan continued to build up a financial profile of Mr Mokbel and his associates, conducting surveillance on him at various locations including suburban and country race tracks, the Grove Café and locations around Sydney Road.¹⁵²⁴

Information of Solicitor 2 Involvement with Mokbel Gambling

1153. In May 2005, Mr Mokbel had his bail conditions varied to allow him to travel to Queensland.¹⁵²⁵
1154. Between 16 and 23 May 2005, Mr Coghlan received information which indicated that Solicitor 2 and others associated with Mr Mokbel were cashing in chips at Conrad Jupiter's Casino in Brisbane.¹⁵²⁶ Mr Coghlan received

¹⁵¹⁵ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [8], VPL.0014.0086.0001.

¹⁵¹⁶ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [7]-[11], VPL.0014.0086.0001; Exhibit RC1867 Restraining Order against Mr Tony Mokbel, 24 August 2001, ACO.0002.0001.0298.

¹⁵¹⁷ Exhibit RC1568 Ms Nicola Gobbo fee book 01, 5 May 2002, 48, MIN.5000.7000.0001 @.0048.

¹⁵¹⁸ *Mokbel v DPP* (No 3) [2002] VSC 393.

¹⁵¹⁹ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [12], VPL.0014.0086.0001.

¹⁵²⁰ See Chapter 2 for more details regarding the corruption at the Drug Squad.

¹⁵²¹ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [13]-[16], VPL.0014.0086.0001.

¹⁵²² Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [19], VPL.0014.0086.0001.

¹⁵²³ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [9], VPL.0014.0086.0001.

¹⁵²⁴ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [20], VPL.0014.0086.0001.

¹⁵²⁵ Exhibit RC1232B Statement of James (Jim) Coghlan, undated, [25], VPL.0014.0086.0001; Exhibit RC0272 Commander Stuart Bateson diary, 29 June 2005, 33, VPL.0005.0058.0233@.0265.

¹⁵²⁶ Exhibit RC1232b Statement of James (Jim) Coghlan, undated, [25], VPL.0014.0086.0001.

intelligence that \$100,000 had been cashed in over the course of a few days.

Second Investigation of Solicitor 2 Commences (Operation Pedal)

1 June 2005 – Purana Briefing about Money Laundering

1155. On 1 June 2005, Mr L'Estrange was briefed by Detective Sergeant Craig Wilson regarding potential money laundering offences by Solicitor 2. He noted that enquiries had been made with a number of casinos in Brisbane and Sydney and they had photos of Solicitor 2 in attendance with Mr Mokbel using her identification to cash out casino chips.¹⁵²⁷
1156. Mr Bateson was also briefed as to the matter, as his evidence was that he recalled photographs and intelligence of Solicitor 2 with Mr Mokbel.¹⁵²⁸

4 June 2005 – Gobbo Meeting with Bateson (No.2)

1157. At a meeting on 4 June 2005, Mr Bateson met with Ms Gobbo in South Melbourne for 53 minutes.¹⁵²⁹ They discussed matters including the following:
- 1157.1. Mark Moran had been in a dispute in relation to two service stations (the Carl Williams committal for the Mark Moran murder had taken place on 24 and 25 May 2005)
 - 1157.2. Solicitor 2 had employed a private investigator, Peter Lowe, to review the work of the Purana Taskforce and to follow the Detectives
 - 1157.3. Solicitor 2 had stated in passing that 'you can fix your tax problems by gambling'
 - 1157.4. Solicitor 2 was living in an apartment owned by Mr Mokbel, although it was not in his name
 - 1157.5. Solicitor 2 was buying a Porsche, possibly worth \$300,000 and a motor bike, using finance arranged through Mr Mokbel, on which she thought she could make a tax claim
 - 1157.6. Barrister 1 was still owed money and would not be paid until the new financial year
 - 1157.7. Solicitor 2 had a caveat on Mr George Williams' property which was not restrained
 - 1157.8. not enough attention was being paid to Mr Mokbel's restrained assets.¹⁵³⁰

¹⁵²⁷ Exhibit RC0265 Detective Senior Sergeant Nigel L'Estrange diary, 1 June 2005, 3, VPL.0005.0119.0061 @.0063; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 20, VPL.0015.0001.0409 @.0428.

¹⁵²⁸ Transcript of Commander Stuart Bateson, 20 November 2019, 9639.

¹⁵²⁹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 20, VPL.0015.0001.0409 @.0428.

¹⁵³⁰ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 20, VPL.0015.0001.0409 @.0428; Transcript of Commander Stuart Bateson, 2 July 2019, 3434.

1158. Mr Bateson informed Mr Ryan of this meeting.¹⁵³¹
1159. Ms Gobbo accepted that she was informing to Mr Bateson concerning Mr George Williams and Mr Mokbel, both of whom were her clients at the time.¹⁵³²
1160. Mr Bateson stated that although he was aware the information that Ms Gobbo was providing to him was coming predominantly from Solicitor 2, he did not ever consider that the information was coming from legal instructions. Mr Bateson said he knew she had represented Mr Mokbel but could not say whether he was conscious of that at this time. Nor could he say if he knew she was acting for Mr George Williams at the time. He agreed that the information being provided by Ms Gobbo was clearly adverse to the interests of Mr George Williams.¹⁵³³
1161. Mr Bateson said his interest was piqued as he wanted to know how the legal representatives were being paid. It was his strong belief they were being paid with the proceeds of crime as he believed they had every asset of Mr Carl Williams restrained.¹⁵³⁴
1162. Mr Ryan, who received the information from Mr Bateson, gave evidence to the Commission that he was aware that Ms Gobbo was acting on behalf of Mr Mokbel from 2002 until early 2006.¹⁵³⁵ That being so, he must have been aware that Ms Gobbo was informing against her client.

6 June 2005 – Overland Told of Possible Informing by Gobbo

1163. On 6 June 2005, a Purana Taskforce meeting was attended by Messrs Overland, Purton and Swindells.¹⁵³⁶
1164. The Purana update recorded that ‘defence barrister Nicola Gobbo attempted to make contact with Operation Purana members offering information. Her motives for this are yet to be established.’¹⁵³⁷ A corresponding entry in Mr Purton’s diary stated:
- Nicola Gobbo to meet with Stuart Bateson.*¹⁵³⁸
1165. Mr Bateson acknowledged that this would have referred to his contact with Ms Gobbo, rather than other members within Purana. He believed others would have notified him had they been approached by her.¹⁵³⁹
1166. The Purana update also recorded that ‘enquiries regarding the financial affairs of Solicitor 2 continued with investigations of money laundering

¹⁵³¹ Exhibit RC0252B Purana Chronology prepared by Commander Stuart Bateson, 21, VPL.0015.0001.0409 @.0429.

¹⁵³² Transcript of Ms Nicola Gobbo, 6 February 2020, 13299-13300.

¹⁵³³ Transcript of Commander Stuart Bateson, 2 July 2019, 3434-3435.

¹⁵³⁴ Transcript of Commander Stuart Bateson, 2 July 2019, 3436.

¹⁵³⁵ Transcript of Mr Gavan Ryan, 9 August 2019, 4345 [44]–4346 [8].

¹⁵³⁶ Exhibit RC0109 Mr Terry Purton diary, 6 June 2005, 4, VPL.0005.0067.0005 @.0008.

¹⁵³⁷ Exhibit RC0775 Purana Taskforce Update, 6 June 2005, VPL.0100.0012.0112.

¹⁵³⁸ Exhibit RC0109 Mr Terry Purton diary, 6 June 2005, 4, VPL.0005.0067.0005 @.0008.

¹⁵³⁹ Transcript of Commander Stuart Bateson, 20 November 2019, 9635–6.

offences being explored'.¹⁵⁴⁰ The corresponding entry in Mr Purton's diary stated:

*Craig Wilsons ACC crew. Solicitor 2 money laundering Jupiters+ Brisbane Casino, extra territorial warrants, \$50k X 2.*¹⁵⁴¹

1167. The amount recorded by Mr Purton coincides with the information originally received by Mr Coghlan referred to above.
1168. Following that meeting, Mr Purton received an update in relation the arrest and interview of Mr Milad Mokbel by the Lorcha Taskforce. He was told that Mr Milad Mokbel had not been charged, and that he had called Ms Gobbo for legal representation.¹⁵⁴²

June & July 2005 – Operation Pedal Investigation Continues

1169. In June 2005, there were continued enquiries being made regarding the affairs of Solicitor 2 with investigations of money laundering being explored. By this time, the investigation had been named Operation Pedal. The Purana Taskforce weekly updates during that period noted the ongoing investigation.¹⁵⁴³

7 June 2005 – Gobbo Raises Personal Safety Concerns with Bateson

1170. On 7 June 2005, Ms Gobbo rang Mr Bateson in relation to a concern about a vehicle which had been parked outside her office for two hours. Mr Bateson arranged for local police to check the vehicle. It was a husband waiting for his wife.

15 June 2005 – Discussions with the OPP over Williams Restraining Orders

1171. On 15 June 2005, Mr Bateson attended a meeting at the OPP with Mr Craig Wilson and Detective Sergeant Shane O'Connell to discuss the restraining orders in place over the Williams' assets.
1172. In their meeting on 4 June 2005, Ms Gobbo had alerted Mr Bateson to the Williams' having unrestrained property.
1173. During the meeting it was noted that some property had not been restrained due to oversight. This included a property at Katandra Crescent. Other properties at Primrose Street and McPherson Street were said to be all restrained along with bank accounts.¹⁵⁴⁴ There was discussion of future court

¹⁵⁴⁰ Exhibit RC0775 Purana Taskforce Update, 6 June 2005, VPL.0100.0012.0112.

¹⁵⁴¹ Exhibit RC0109 Mr Terry Purton diary, 6 June 2005, 4, VPL.0005.0067.0005 @.0008.

¹⁵⁴² Exhibit RC0109 Mr Terry Purton diary, 6 June 2005, 4, VPL.0005.0067.0005 @.0008.

¹⁵⁴³ Exhibit RC0272 Commander Stuart Bateson diary, 7 June 2005, 26, VPL.0005.0058.0233 @.0258; Exhibit RC0775 Purana Taskforce Update, 13 June 2005, VPL.0100.0012.0109; Exhibit RC0265 Detective Senior Sergeant Nigel L'Estrange diary, 16 June 2005, 5, VPL.0005.0119.0061 @.0065; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 21, VPL.0015.0001.0409 @.0429; Exhibit RC0775 Purana Taskforce Update, 20 June 2005, VPL.0100.0012.0110; Exhibit RC0775 Purana Taskforce update, 27 June 2005, VPL.0100.0012.0111; Exhibit RC0775 Purana Taskforce Update, 4 July 2005, VPL.0100.0012.0086; Exhibit RC0775 Purana Taskforce Update, 11 July 2005, VPL.0100.0012.0087.

¹⁵⁴⁴ Exhibit RC0272 Commander Stuart Bateson diary, 15 June 2005, 29, VPL.0005.0058.0233 @.0261.

hearings in the matter, and difficulties obtaining the necessary documents.¹⁵⁴⁵

20 June 2005 – Purana Meet with ACC to Discuss Operation Pedal Hearings

1174. On 20 June 2005, Messrs Bateson, Ryan, Wilson and other Purana investigators met with ACC staff to discuss the potential examination of Solicitor 2 and associated people in relation to the payment of legal fees.¹⁵⁴⁶
1175. The ACC indicated it would not examine Barrister 1 given that it was unlikely that he would have knowledge of the source of fees as they were handled by his clerk, although they did not rule out calling him if further evidence was required.¹⁵⁴⁷
1176. Mr Bateson told the ACC staff that Purana wanted Solicitor 2 examined to determine each of her appearances, how and by whom she was paid, when and where the money went, her knowledge of the payment to Barrister 1, and the casino allegations.¹⁵⁴⁸

29 June 2005 – Gobbo Meeting with Bateson (No.3)

1177. On 29 June 2005, Mr Bateson met with Ms Gobbo at a coffee shop in the Melbourne CBD for approximately 45 minutes. During the meeting Ms Gobbo told him that:
- 1177.1. Mr George Williams had taken out a potentially 'dodgy' loan against his property at Katandra Crescent in Broadmeadows in order to pay his legal fees
- 1177.2. the money was to be on paid on 1 July 2005 but full funding was not resolved
- 1177.3. Solicitor 2 was a regular at the TAB near her office
- 1177.4. Mr Mokbel was applying for a bail on Friday to travel to Queensland, and she would not be surprised if Solicitor 2 joined him, suggesting it was possible the two had a sexual relationship
- 1177.5. Mr Mokbel was currently associated with a loan shark from Queensland named Clinton and Ms Gobbo could not work out why Mr Mokbel seemed to be giving Clinton money.¹⁵⁴⁹
1178. The evidence indicates that the legal fees being referred to were those from the Operation Droil committal in May 2005, in which Barrister 1 and Ms Gobbo had appeared. Ms Gobbo told the Commission that she was concerned that the 'dodgy loan' was taken out by Mr George Williams to pay

¹⁵⁴⁵ Exhibit RC0272 Commander Stuart Bateson diary, 15 June 2005, 29, VPL.0005.0058.0233 @.0261.

¹⁵⁴⁶ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 21, VPL.0015.0001.0409 @.0429; Exhibit RC0312 Mr Gavan Ryan diary, 20 June 2005, 14, VPL.0005.0120.0074 @.0090.

¹⁵⁴⁷ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 21, VPL.0015.0001.0409 @.0429; Exhibit RC0272 Commander Stuart Bateson diary, 20 June 2005, 30, VPL.0005.0058.0233 @.0262.

¹⁵⁴⁸ Exhibit RC0272 Commander Stuart Bateson diary, 20 June 2005, 30, VPL.0005.0058.0233 @.0262.

¹⁵⁴⁹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 21, VPL.0015.0001.0409 @.0429.

her fees and she may have been paranoid that she was going to have a warrant executed on her 'like everyone else'.¹⁵⁵⁰

1179. After the meeting with Ms Gobbo, Mr Bateson briefed Mr Ryan, Mr Wilson and Mr L'Estrange. Mr Wilson was to follow up on the loan, the TAB account and the possible trip to Queensland.
1180. Mr Bateson confirmed with the AFP that Mr Mokbel's bail had been varied so he could travel to Queensland.¹⁵⁵¹

30 June 2005 – Bateson Attends Supreme Court Mention for Williams, Thomas & Andrews

1181. On 30 June 2005, Mr Bateson attended the Supreme Court at Melbourne for the mention of the trial of Mr Carl Williams, Mr Andrews and Mr Thomas trial for the murders of Mr Jason Moran, Mr Pasquale Barbaro and Mr Michael Marshall.¹⁵⁵²
1182. Mr Heliotis appeared for Mr Carl Williams, Mr Papas appeared for Mr Andrews (who indicated his client would plead guilty to the Marshall murder), and Ms Gobbo appeared for Mr Thomas.¹⁵⁵³ As at the committal, Solicitor 2 was the instructing solicitor for both Mr Carl Williams and Mr Andrews.¹⁵⁵⁴
1183. Justice King ordered the service of subpoenas by the following Wednesday.¹⁵⁵⁵ Mr Bateson requested Solicitor 2, in the presence of Mr Heliotis, to serve subpoenas on St Kilda Road Police Station due to limited time. Accordingly, Solicitor 2 indicated she would email them that day. Ms Gobbo also stated that a subpoena might be forthcoming in respect of Mr Thomas.¹⁵⁵⁶
1184. Mr Ryan told the Commission that he would expect that Mr Bateson would have advised him of his attendance at court for such a matter. He said further that he knew Ms Gobbo had acted for Mr McGrath. He also knew that Ms Gobbo had assisted Mr McGrath in implicating Mr Thomas while simultaneously representing Mr Thomas.

¹⁵⁵⁰ Transcript of Ms Nicola Gobbo, 6 February 2020, 13300-1.

¹⁵⁵¹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 21-2, VPL.0015.0001.0409 @.0429-0430; Exhibit RC0272 Commander Stuart Bateson diary, 25 June 2005, 33, VPL.0005.0058.0233 @.0266; Exhibit RC0312 Mr Gavan Ryan diary, 25 June 2005, 14, VPL.0005.0120.0074 @.0090; Transcript of Commander Stuart Bateson, 20 November 2019, 9642-3.

¹⁵⁵² Exhibit RC0272 Commander Stuart Bateson diary, 30 June 2005, 34, VPL.0005.0058.0233 @.0266.

¹⁵⁵³ Exhibit RC0273 Ms Nicola Gobbo court book 11, 30 June 2005, 22, MIN.0001.0011.0003 @. 0022.

¹⁵⁵⁴ Exhibit RC0771B Confidential unsworn affidavit of Detective Senior Sergeant Nigel L'Estrange, 22 August 2005, 2 [8]-[9], VPL.6024.0200.8553 @.8664; Exhibit RC1889 Transcript of Proceedings, *The Queen v Carl Anthony Williams* (Supreme Court of Victoria, Teague J, 6 June 2005), RCMPI.0108.0002.0013; Exhibit RC1890 Transcript of Proceedings, *The Queen v Carl Anthony Williams* (Supreme Court of Victoria, King J, 30 June 2005), VPL.6024.0200.3066; Transcript of Commander Stuart Bateson, 19 November 2019, 9545.

¹⁵⁵⁵ Exhibit RC0272 Commander Stuart Bateson diary, 30 June 2005, 34, VPL.0005.0058.0233 @.0266; Exhibit RC1868 Subpoena for Production, *The Queen v Carl Anthony Williams*, 30 June 2005, RCMPI.0108.0002.0003.

¹⁵⁵⁶ Exhibit RC0272 Commander Stuart Bateson diary, 30 June 2005, 34, VPL.0005.0058.0233 @.0266; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 22, VPL.0015.0001.0409 @.0430.

1185. Upon reflection, Mr Ryan said that knowledge of this situation would have provided him with a level of discomfort at the time. Whilst he stated that this was an issue for the OPP, he conceded that he did not engage in any discussion with the OPP to deal with or resolve this issue.¹⁵⁵⁷

21 July 2005 – Gobbo Meeting with Bateson (No.4)

1186. On 21 July 2005 Mr Bateson met with Ms Gobbo at a coffee shop in the city. During the meeting Ms Gobbo told him that:

- 1186.1. \$100,000 of fees owing to Barrister 1 for the committal of Messrs George and Carl Williams had been paid in two separate cheques, through bookmakers, and that the money was coming from Mr Mokbel who would continue to pay the legal fees for the Williams
- 1186.2. Barrister 1 was trying to get Solicitor 2's charges dropped and the Primrose Street property unrestrained
- 1186.3. Ms Gobbo said that Solicitor 2 should be asked what she thought her obligations were in relation to the source of client funds, and what steps she had undertaken on this occasion.¹⁵⁵⁸

1187. It is clear from this last matter that Ms Gobbo was aware of the proposed compulsory examination of Solicitor 2.¹⁵⁵⁹

1188. In the Purana Taskforce update dated 1 August 2005, it was noted that further investigation and analysis pertaining to 'Operation Pedal', and 'money laundering by Solicitor 2' was under way.¹⁵⁶⁰

17 August 2005 – Gobbo Informs to Flynn about Solicitor 2

1189. During 2005, the MDID had been conducting an investigation named Operation Quills. The investigation targeted a number of individuals, including Mr Mokbel. These matters are dealt with in detail in Chapter 10.
1190. On 15 August 2005, [REDACTED], Mr Bickley, [REDACTED] [REDACTED] arrested in relation to serious drug offending arising from Operation Quills.¹⁵⁶¹ When he was being interviewed by Mr Rowe and Ms Burrows on the morning of 16 August 2005, Mr Bickley requested to speak with Ms Gobbo. There was an unsuccessful attempt to make contact with her.¹⁵⁶²
1191. On 17 August 2005, Ms Gobbo spoke with Mr Flynn. They spoke about Ms Gobbo not having been contacted following Mr Bickley's arrest and the police having called her on a number she was no longer using.¹⁵⁶³

¹⁵⁵⁷ Transcript of Mr Gavan Ryan, 13 August 2019,4450-1.

¹⁵⁵⁸ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 22, VPL.0015.0001.0409 @.0430; Exhibit RC0272 Commander Stuart Bateson diary, 21 July 2005, 40-41, VPL.0005.0058.0233_S20190613 @.0272-.0273.

¹⁵⁵⁹ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 22, VPL.0015.0001.0409 @.0430.

¹⁵⁶⁰ Exhibit RC0775 Operation Purana Update, 1 August 2005, [2], VPL.0100.0012.0021.

¹⁵⁶¹ Exhibit RC0560 Inspector Dale Flynn diary, 15 August 2005, 1, VPL.0098.0059.0004 @.0004.

¹⁵⁶² Exhibit RC1381 Detective Senior Sergeant Paul Rowe diary, 16 August 2005, VPL.0005.0107.0001 @.0014; Exhibit RC1565 Ms Eliza Burrows diary, 16 August 2005, 13, VPL.0005.0089.0001 @.0013.

¹⁵⁶³ Exhibit RC0542 Inspector Dale Flynn diary, 17 August 2005, 1, VPL.0010.0004.0001.

1192. Ms Gobbo told Mr Flynn:
- 1192.1. she had arranged for Mr (Tony) Hargreaves, solicitor, to speak with Mr Bickley but she was now concerned that Solicitor 2 was speaking to all three accused
 - 1192.2. she was concerned that Solicitor 2 was working on behalf of Mr Mokbel and giving instruction to those men on behalf of Mr Mokbel
 - 1192.3. Solicitor 2 was committing the offence of 'Perverting the Course of Justice'.
1193. Mr Flynn told Ms Gobbo he would investigate the matter to see if one of the three men would tell them what was being said.¹⁵⁶⁴
1194. Mr Flynn notified Detective Inspector Shawyer and Senior Sergeant O'Brien.¹⁵⁶⁵

Mid-August 2005 – Operation Pedal

1195. A Purana Taskforce weekly meeting occurred on 15 August 2005. The weekly update noted in respect of Operation Pedal, the planned investigations for the upcoming week including that Solicitor 2 and others were to be examined by the ACC.¹⁵⁶⁶
1196. Mr Overland made an entry in his diary at this meeting 'Solicitor 2 – ACC.'¹⁵⁶⁷
1197. That day, Messrs Bateson, L'Estrange and Wilson attended a meeting with ACC staff.¹⁵⁶⁸
1198. During August 2005 Mr Bateson attended a number of hearings.¹⁵⁶⁹
1199. [REDACTED]
[REDACTED]
[REDACTED] Mr Bateson was aware of Ms Gobbo's conflict in relation to this matter. It should be inferred that he did not raise Ms Gobbo's conflict with anyone, including with Ms Gobbo.

18 to 23 August 2005 – Discussions with the OPP over Mokbel Restraining Orders

1200. On 18 August 2005, Mr Coghlan spoke to Mr Phil Raimondo of the OPP regarding the restraint on Mr Mokbel's assets. Mr Raimondo told him that

¹⁵⁶⁴ Exhibit RC0542 Inspector Dale Flynn diary, 17 August 2005, 1, VPL.0010.0004.0001.

¹⁵⁶⁵ Exhibit RC0542 Inspector Dale Flynn diary, 17 August 2005, 1, VPL.0010.0004.0001.

¹⁵⁶⁶ Exhibit RC0775B Operation Purana Update, 15 August 2005, [2], VPL.0100.0012.0022.

¹⁵⁶⁷ RC0984A Simon Overland diary, 15 August 2005, 488, RCMP1.0133.0001.0001 @.0488.

¹⁵⁶⁸ Exhibit RC0272 Commander Stuart Bateson diary, 17 August 2005, 45, VPL.0005.0058.0233_R20190516 @.0279.

¹⁵⁶⁹ Exhibit RC0272 Commander Stuart Bateson diary, 16 August 2005, 46, VPL.0005.0058.0233_R20190613 @.0278.

¹⁵⁷⁰ Exhibit RC0273 Ms Nicola Gobbo diary and court books, 17 August 2008, 39, MIN.0001.0014.0526 @.0565; Exhibit RC0272 Commander Stuart Bateson diary, 17 August 2005, 44-45, VPL.0005.0058.0233_R20190516 @.0278-.0279; Exhibit RC0281, ICR3838 (002), 20 September 2005, 11, VPL.2000.0003.1597.

¹⁵⁷¹ Exhibit RC0272 Commander Stuart Bateson diary, 17 August 2005, 49, VPL.0005.0058.0233_R20190516 @.0283.

he had received information from another law enforcement agency that Mr Mokbel was using the ANZ account of Mr Noble.¹⁵⁷²

1201. Mr Coghlan identified that the account had a balance of \$200,000 and attempted to restrain the account on the basis the funds belonged to Mr Mokbel, however the bank refused to restrain the account pursuant to the existing order as it was in the name of Mr Noble.¹⁵⁷³
1202. On 19 August 2005 Mr Coghlan was told that a bank cheque for \$200,000 had been withdrawn from the account. He placed a stop on the bank cheque and the OPP applied to restrain the account. This was the first new application for a restraint in relation to Mr Mokbel's assets since 2001.¹⁵⁷⁴
1203. Mr Bateson's day book notes indicate he was involved in those matters during the day, speaking with Mr Raimondo and later Mr Coghlan about the cancelled bank cheque.¹⁵⁷⁵
1204. On 23 August 2005, Mr Coghlan served the restraining orders on Messrs Noble and Mokbel.¹⁵⁷⁶ Mr Mokbel claimed to have had a verbal agreement with the OPP that they would allow him to conduct his business separately to the properties listed in the global restraining order.¹⁵⁷⁷ Mr Coghlan said he was not aware of this agreement.¹⁵⁷⁸
1205. The following day Mr Coghlan received a call from Ms Gobbo in relation to the matter. She claimed she had previously had a conversation with the OPP in the presence of Mr Heliotis and solicitor, Mr James Valos, during which a verbal agreement had been reached permitting Mr Mokbel to 'conduct his business' as long as it did not affect any of the properties listed in the restraining order. It was said that this agreement also allowed him to gamble.¹⁵⁷⁹
1206. Mr Coghlan then spoke to Mr Raimondo, who said that he had had many conversations with Mr Mokbel's legal team but recalled no discussion to the effect indicated by Ms Gobbo.¹⁵⁸⁰

¹⁵⁷² Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6 [29], VPL.0014.0086.0001 @.0006.

¹⁵⁷³ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6, 30, VPL.0014.0086.0001 @.0006.

¹⁵⁷⁴ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6,31, VPL.0014.0086.0001 @.0006.

¹⁵⁷⁵ Exhibit RC0272 Commander Stuart Bateson diary, 17 August 2005, 45, VPL.0005.0058.0233_R20190516 @.0279.

¹⁵⁷⁶ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6, 32, VPL.0014.0086.0001 @.0006.

¹⁵⁷⁷ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6, 32, VPL.0014.0086.0001 @.0006.

¹⁵⁷⁸ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6, 32, VPL.0014.0086.0001 @.0006.

¹⁵⁷⁹ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6,33, VPL.0014.0086.0001 @.0006.

¹⁵⁸⁰ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan Statement 6, 33, VPL.0014.0086.0001 @.0006.

22 August 2005 - Victoria Police Raise Concerns about the Ethics of Solicitor 2

1207. On 22 August 2005 a mention was held before Justice King in relation to the upcoming trial of Mr Carl Williams. The mention involved consideration of PII claims made upon telephone intercept summaries.¹⁵⁸¹
1208. Mr Sean Grant appeared for Mr Carl Williams, instructed by Solicitor 2.¹⁵⁸² Mr L'Estrange attended the hearing.¹⁵⁸³ Mr L'Estrange noted a copy of the telephone intercept material was personally provided to Mr Grant, who undertook to the court that it would not to be copied or downloaded and could only be shown by him to senior counsel. He further noted that any matters that arose from the material could be discussed with the 'client or junior solicitor', but the material could not be shown to them. At the completion of the trial, the disc was to be returned.¹⁵⁸⁴
1209. It appears that this undertaking arose from concerns raised in a confidential affidavit dated 22 August 2005 sworn by Mr L'Estrange, in relation to the claim for PII.
1210. Amongst other matters, Mr L'Estrange deposed in the confidential affidavit that:
- 1210.1. the release of hard copies of the material to Solicitor 2 was resisted due to Victoria Police's concerns as to her professionalism, ethical behaviour and criminal associations
 - 1210.2. investigators believed that the release of these hard copies could pose a risk of the material coming into the possession of third parties with criminal connections, which in turn could jeopardise the privacy and safety of third persons recorded on the telephone intercept material
 - 1210.3. the reasons for which investigators held those concerns, included that the OPP were considering charges against Mr Mokbel and Solicitor 2 in relation to allegations involving Solicitor 2 assisting Mr Mokbel to cash out gambling proceeds to avoid Mr Mokbel having to declare it both by reason of the restraining order and as required by Australian Transaction Reports and Analysis Centre (AUSTRAC)
 - 1210.4. this incident, among others, meant that he had concerns about the ethics of Solicitor 2
 - 1210.5. Solicitor 2 'had shown a propensity to conduct herself in a manner outside the role of a legal practitioner'.¹⁵⁸⁵

¹⁵⁸¹ Exhibit RC0771 Confidential Unsworn Affidavit of Detective Senior Sergeant Nigel L'Estrange, 22 August 2005, VPL.6024.0200.8553; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 23, VPL.0015.0001.0409 @.0431.

¹⁵⁸² Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 23, VPL.0015.0001.0409 @.0431.

¹⁵⁸³ Exhibit RC0265 Detective Senior Sergeant Nigel L'Estrange diary, 17 August 2005, 171, VPL.0005.0119.0061 @.0071.

¹⁵⁸⁴ Exhibit RC0265 Detective Senior Sergeant Nigel L'Estrange diary, 17 August 2005, 171, VPL.0005.0119.0061 @.0071.

¹⁵⁸⁵ Exhibit RC0771 Confidential Unsworn Affidavit of Detective Senior Sergeant Nigel L'Estrange, 22 August 2005 6 [12], [20], [24], VPL.6024.0200.8553 @.8557.

1211. The copy of this confidential affidavit provided to the Commission was not sworn. It should be inferred that it was sworn by Mr L'Estrange, given the undertaking that Mr Grant made upon receipt of the intercept material.
1212. Further, the copy produced to the Commission was contained as an attachment to an email sent by Mr Bateson to Messrs O'Brien, Ryan, Wilson, L'Estrange and Marr, regarding Solicitor 2 on 9 March 2007.¹⁵⁸⁶ In that 2007 email, Mr Bateson said that he and Mr L'Estrange had met with the Legal Services Board in relation to proceedings concerning to the non-renewal of Solicitor 2's practicing certificate, and had spoken to them about the confidential affidavit. Mr O'Brien caused that email to be forwarded to all Purana members. It was clear that investigators were aware they had avenues to raise concerns about the ethical and professional conduct of lawyers with whom they were dealing.
1213. Mr Bateson agreed in his evidence to the Commission that this indicated that police members were prepared to take action if they had concerns about the professionalism, ethical behaviour and criminal associations of a lawyer if it was in the interests of the prosecution.¹⁵⁸⁷
1214. Mr Bateson further accepted the proposition that, if a view was taken by members of Victoria Police that a lawyer should not be involved in a proceeding or was engaging in conduct which was improper, that steps could be taken to do something about it.¹⁵⁸⁸
1215. The Purana Taskforce weekly update of 1 August 2005 noted that investigators had responded to a subpoena from the defence regarding disclosure of information reports on Mr Carl Williams and the result that information would be released to Mr Sean Grant, but not Solicitor 2.¹⁵⁸⁹

23 August 2005 – Gobbo Meeting with Bateson (No.5)

1216. On 23 August 2005, Mr Bateson met with Ms Gobbo at a coffee shop in Toorak. The meeting lasted for 38 minutes. During the conversation she told him that:
- 1216.1. Solicitor 2 had been very upset about her examination and had purchased a pit-bull so that police could not install listening devices
- 1216.2. Ms Gobbo now believed that Mr Mokbel was not paying the Williams' legal fees
- 1216.3. Barrister 1 was worried he would be examined (Mr Bateson deliberately misinformed her that this would occur)
- 1216.4. Solicitor 2 was driving a vehicle which was registered to one of Mr Mokbel's friends and was probably 'hot'

¹⁵⁸⁶ Exhibit RC1683 Email from Inspector Dale Flynn to Commander Stuart Bateson Attaching Unsworn Affidavit of Detective Senior Sergeant Nigel L'Estrange, 9 March 2007, VPL.6024.0200.8551.

¹⁵⁸⁷ Transcript of Commander Stuart Bateson, 19 November 2019, 9544.

¹⁵⁸⁸ Transcript of Commander Stuart Bateson, 19 November 2019, 9544.

¹⁵⁸⁹ Exhibit RC0775B Operation Purana Update, 1 August 2005, 1 [2], VPL.0100.0012.0023 @.0023.

- 1216.5. Mr George Williams had refinanced the Katandra Crescent property and she believed the loan would be based on false valuations.¹⁵⁹⁰
1217. Mr Bateson asked Ms Gobbo to find out what she could about Mr George Williams' loan and the vehicle Solicitor 2 was driving. Mr Bateson agreed that once he had specifically asked her to find out information about the loan and the vehicle, the relationship had progressed towards Ms Gobbo being actively used by police to pursue criminals.¹⁵⁹¹
1218. Mr Bateson informed Mr Ryan of his meeting.

Gobbo Recruited as a Human Source by MDID

31 August 2005 – Gobbo 'Recruited' by MDID

1219. These matters are dealt with in detail in Chapter 10.
1220. On 31 August 2005, Ms Gobbo was briefed by Solicitor 2 to conduct a bail application on behalf of Mr Bickley.
1221. On that day Ms Gobbo spoke with the informant, Detective Senior Constable Paul Rowe and Detective Sergeant Mansell on a number of occasions, about matters related to Mr Mokbel, including his expectation that that she would represent others in a way that would protect his interests. She indicated that Solicitor 2 was also involved in a similar relationship. Ms Gobbo spoke about the concealing of assets and money laundering by Mr Mokbel. At some point, Mr Mansell mooted the prospect that Ms Gobbo should 'get on board'.¹⁵⁹²
1222. Ms Gobbo told Mr Rowe that she saw that if she aligned herself with police it was a way out of her arrangement with Mr Mokbel. Messrs Rowe and Mansell spoke with Ms Gobbo about the process involved in co-operating. She expressed concern about people finding out and wanted assurances she would be looked after if she gave the police information. Ms Gobbo was told she would be managed by specialists if she decided to co-operate.¹⁵⁹³
1223. Mr O'Brien was briefed by Messrs Rowe and Mansell throughout this process and had instructed them to record conversations with her throughout the day. Mr O'Brien was given the recordings thereafter.¹⁵⁹⁴ The recordings have not been provided to the Commission, as they cannot be found.

¹⁵⁹⁰ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 23, VPL.0015.0001.0409 @.0431; Exhibit RC0272 Commander Stuart Bateson diary, 23 August 2005, 47, VPL.0005.0058.0233_R20190516 @.0281.

¹⁵⁹¹ Transcript of Commander Stuart Bateson, 20 November 2019, 9653.

¹⁵⁹² Exhibit RC0266, Statement of Detective Sergeant Paul Rowe, 25 June 2019, 2 [7] – 5 [35], VPL.0014.0035.0028, @.0029-.0032.

¹⁵⁹³ Exhibit RC0266, Statement of Detective Sergeant Paul Rowe, 25 June 2019, 2 [7] – 5 [35], VPL.0014.0035.0028, @.0029-.0032.

¹⁵⁹⁴ Exhibit RC0266, Statement of Detective Sergeant Paul Rowe, 25 June 2019, 2 [7] – 5[35], VPL.0014.0035.0028, @.0029-.0032.

1224. That afternoon, Mr O'Brien spoke with Mr Ryan about 'Gobbo issues'. Mr O'Brien also contacted Mr Sandy White at the SDU.¹⁵⁹⁵
1225. Given that Mr O'Brien immediately approached Mr Ryan, it is apparent that he had some idea that Ms Gobbo had been providing information to the Purana Taskforce. Presumably, he had been told as it may have affected MDID investigations into Mr Mokbel.

31 August 2005 – Gobbo Appears for Solicitor 2

1226. As well as appearing for Mr Bickley, briefed by Solicitor 2 on this day, Ms Gobbo also appeared for Solicitor 2 in a hearing related to the charges which had been laid against her in May 2005.¹⁵⁹⁶ Ms Gobbo appeared again for Solicitor 2 in that matter on 23 May 2006.
1227. When questioned about her decision to appear for Solicitor 2 in circumstances where she was actively informing to police about her, Ms Gobbo said she felt she could not say no, although not on the basis of any harm which would befall her. Ms Gobbo accepted she could simply have refused the brief had she not been so 'weak and pathetic in relation to [her] self-esteem'. Ms Gobbo said she never considered seeking a ruling from the Victorian Bar Ethics Committee in relation to the appropriateness of what she was doing. She accepted Counsel Assisting's proposition that the scenario was repugnant.¹⁵⁹⁷

1 September 2005 – Gobbo Concerned about Disclosure to Solicitor 2

1228. On 1 September 2005, Mr Bateson attended court for a further mention of subpoena argument before Justice King in relation to the upcoming trial of Mr Carl Williams.¹⁵⁹⁸
1229. Later that day Mr Bateson received a call from Ms Gobbo who expressed concern over comments Solicitor 2 had made, that she would be receiving unedited police notes. Ms Gobbo was concerned that if Solicitor 2 received unedited police notes through the subpoena process it would reveal Ms Gobbo's role in relation to advising Mr McGrath.¹⁵⁹⁹
1230. Mr Bateson assured her that the provision of such notes would be resisted (as had occurred in other proceedings in which Mr McGrath had been a witness). Ms Gobbo then told Mr Bateson about a 'run in' with the Drug Squad which ended in her crying, referring to her discussions with Mr Rowe and Mr Mansell the previous day. Mr Bateson noted in his day book that Ms Gobbo obviously wanted to emphasise that she was not and would not

¹⁵⁹⁵ Exhibit RC0266, Statement of Detective Sergeant Paul Rowe, 25 June 2019, 5[34], VPL.0014.0035.0028 @.0032; Exhibit RC0933 Mr James (Jim) O'Brien diary, 31 August 2005, 1, VPL.0099.0099.0001 @.0001; Exhibit RC0468B Mr James (Jim) O'Brien diary summaries, 31 August 2005, 3, VPL.0005.0126.0001 @.0003.

¹⁵⁹⁶ Exhibit RC1841 Magistrates' Court of Victoria record of persons represented by Ms Nicola Gobbo, 31 August 2005, 18, MCV.0001.0001.0001 @.0016.

¹⁵⁹⁷ Transcript of Ms Nicola Gobbo, 4 February 2020, 13305-6.

¹⁵⁹⁸ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 23, VPL.0015.0001.0409 @.0431; Exhibit RC0272 Commander Stuart Bateson diary, 1 September 2005, 49, VPL.0005.0058.0233_R20190516 @.0283.

¹⁵⁹⁹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 12 [71], VPL.0014.0027.0001_R1S @.0012; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 23, VPL.0015.0001.0409 @.0431.

involve herself in criminal activity. Mr Bateson noted that he allowed her to vent. He also noted that he informed Mr Ryan.¹⁶⁰⁰

Motivation of Gobbo

1231. As referred to earlier, there had been a usurping of Ms Gobbo's role in the legal representation of Mr Mokbel, which led to some jealousy on her part.¹⁶⁰¹ It is also apparent that Ms Gobbo was motivated by concerns that her involvement with Mr McGrath would be revealed to Solicitor 2 and others in the proceedings against Mr Carl Williams.¹⁶⁰² Ms Gobbo said:

*It was self-preservation, that's right. Wrong as it was.*¹⁶⁰³

1232. Mr Bateson said he did not have a concrete view on Ms Gobbo's motivations for speaking to him.¹⁶⁰⁴ However, he considered that it was in part due to her personal dislike for Solicitor 2. He did not think that she was seeking to gain anything for herself.¹⁶⁰⁵ In considering whether it was strange for a legal practitioner to be speaking to him in this way, Mr Bateson said:

*I thought at the time it was not an ordinary circumstances to have a legal practitioner talking to me in that manner, but it wasn't unusual for an associate of these people to be talking to me in that manner.*¹⁶⁰⁶

1233. Mr Ryan told the Commission that when Mr Bateson first mentioned Ms Gobbo providing information to him, he was very dubious as he had the view that she was very close to Messrs Williams and Mokbel, and was worried she could be a 'double agent'. Mr Ryan said he told Mr Bateson he should introduce Ms Gobbo to the SDU as it was their job to assess her and register if she was found to be suitable.¹⁶⁰⁷

1234. On the available evidence, it appears that Mr Bateson was reporting each meeting with Ms Gobbo to Mr Ryan. If such a conversation occurred, it would not have been until late August 2005.

8 September 2005 – Thomas Bail Application

1235. On 8 September 2005 an unsuccessful application for bail Mr Thomas was heard before Justice King.¹⁶⁰⁸ Mr Tinney appeared on behalf of the

¹⁶⁰⁰ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 23, VPL.0015.0001.0409 @.0431.

¹⁶⁰¹ Transcript of Ms Nicola Gobbo, 6 February 2020, 13295-13297.

¹⁶⁰² Transcript of Ms Nicola Gobbo, 6 February 2020, 13302-13303.

¹⁶⁰³ Transcript of Ms Nicola Gobbo, 6 February 2020, 13302-13303.

¹⁶⁰⁴ Transcript of Commander Stuart Bateson, 20 November 2019, 9651.

¹⁶⁰⁵ Transcript of Commander Stuart Bateson, 20 November 2019, 9651-2.

¹⁶⁰⁶ Transcript of Commander Stuart Bateson, 20 November 2019, 9652.

¹⁶⁰⁷ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 7 [36], VPL.0014.0039.0001 @.0007.

¹⁶⁰⁸ Exhibit RC0269 Statement of Stuart Bateson, 7 May 2019, 12 [72], VPL.0014.0027.0001 @.0012.

prosecution and Ms Gobbo appeared for Mr Thomas.¹⁶⁰⁹ Mr Bateson and Mr L'Estrange attended the bail application at the Supreme Court.¹⁶¹⁰

1236. Ms Gobbo had information which could have assisted Mr Thomas in his bail application, having been aware of Mr McGrath's change in account prior to signing his statement.
1237. Ms Gobbo did not call Mr Bateson for cross-examination to put such matters to him.¹⁶¹¹
1238. Neither the court nor Mr Thomas were informed that Ms Gobbo's conflict in respect of Mr McGrath extended beyond her acting for him prior to his agreeing to co-operate with the police. It is self-evident that this conflict placed Ms Gobbo in a position where she could not properly discharge her duties to her client.
1239. On 23 September 2005, Justice King denied Mr Thomas' bail application.¹⁶¹² This was reported in a Purana Taskforce weekly update on 25 September 2005.¹⁶¹³
1240. Mr Bateson considered the refusal of bail to Mr Thomas was a key event in relation to the eventual plea of guilty to the murder of Mr Jason Moran by Mr Thomas and his co-operation with police.¹⁶¹⁴
1241. These matters are referred to in more detail at Chapter 7, which is a detailed case analysis concerning Mr Thomas.

11 September 2005 – Gobbo Advice to Mr Noble (a pseudonym)

1242. As referred to above, the Purana Taskforce had received information that Mr Mokbel had been using the accounts of Mr Noble.
1243. On 11 September 2005, Mr Mokbel brought Mr Noble to Ms Gobbo's chambers. Ms Gobbo reported on this event to the SDU in the weeks thereafter.¹⁶¹⁵ She said, amongst other matters that:

1243.1. Mr Mokbel had told her that Mr Noble [REDACTED]

¹⁶⁰⁹ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 12 [72], VPL.0014.0027.0001_R1S @.0012; Exhibit RC0272 Commander Stuart Bateson diary, 5 September 2005, 51-52, VPL.0005.0058.0233_R20190516 @.0285-.0286; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 55, OPP.0001.0004.0025 @.0079.

¹⁶¹⁰ Exhibit RC0265 Detective Senior Sergeant Nigel L'Estrange diary, 18 May 2005–25 September 2006, 16, VPL.0005.0119.0061 @.0076; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 24, VPL.0015.0001.0409 @.0432; Exhibit RC0272 Commander Stuart Bateson diary, 1 September 2005, 52, VPL.0005.0058.0233_R20190516 @.0286.

¹⁶¹¹ Transcript of Commander Stuart Bateson, 20 November 2019, 9655.

¹⁶¹² Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 24, VPL.0015.0001.0409 @.0432; Exhibit RC0269B Statement of Commander Stuart Bateson, 7 May 2019, 12 [72], VPL.0014.0027.0001 @.0012.

¹⁶¹³ Exhibit RC1748 Operation Purana Update, 25 September 2005, VPL.0100.0012.0183.

¹⁶¹⁴ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 12 [72], VPL.0014.0027.0001_R1S @.0012; Exhibit RC0272 Commander Stuart Bateson diary, 17 August 2005, 51-52, VPL.0005.0058.0233_R20190516 @.0285 -.0286.

¹⁶¹⁵ Exhibit RC0281 ICR3838 (002), 21 September 2005, 10, VPL.2000.0003.1596.

- 1243.2. [REDACTED]
[REDACTED]
- 1243.3. she could not tell Mr Noble [REDACTED]
[REDACTED], although he appeared to know this already
- 1243.4. she advised Mr Noble that that she may not be able to appear for him
- 1243.5. Mr Noble was outraged [REDACTED]
[REDACTED]
[REDACTED]
- 1243.6. she had advised him not to lie because they would probably have recordings
- 1243.7. Mr Noble also had a tape recording of a formal interview that the ATO had with him and wanted to be sure he was telling the coercive hearing the same as what he told the ATO
- 1243.8. Ms Gobbo advised him to tell the truth as his interview with the ATO was not under oath and he could ignore any lies he told.¹⁶¹⁶
1244. It would have been, or if not should have been, apparent to any police officers hearing this information from Ms Gobbo that it was confidential and may well have been in breach of Ms Gobbo's duties to Mr Noble.
1245. On 12 September Ms Gobbo said that she advised Mr Noble the next day that she could not appear for him.
1246. [REDACTED].

14 September 2005 – Gobbo Asks Bateson if She Can Tell Others of Her Informing to Him

1247. On 14 September 2005 Ms Gobbo rang Mr Bateson.¹⁶¹⁷ She told him that she was meeting with Mr Mansell (along with the SDU) and wanted to know if she could tell them of her involvement with Mr Bateson. Mr Bateson said she could.
1248. He then informed Mr O'Brien, who was then Acting as the OIC of Operation Purana.¹⁶¹⁸

16 September 2005 – Gobbo Tells SDU about Disclosure Concerns

1249. The introduction to the SDU was intended to be made by Mr Flynn (whom Ms Gobbo felt comfortable with¹⁶¹⁹) on 16 September, however because of conflicting schedules, he was unable to make the introduction. At the time that Mr Flynn was available, Ms Gobbo was not because she was conferring

¹⁶¹⁶ Exhibit RC0281 ICR3838 (002), 20-21 September 2005, 11, VPL.2000.0003.1597.

¹⁶¹⁷ Exhibit RC0272 Commander Stuart Bateson diary, 14 September 2005, 53, VPL.0005.0058.0233_R20190516 @.0287; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 24, VPL.0015.0001.0409 @.0432.

¹⁶¹⁸ Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, undated, 24, VPL.0015.0001.0409 @.0432.

¹⁶¹⁹ Exhibit RC0560 Inspector Dale Flynn diary, 15 September 2005, 40, VPL.001 0.0007.0001 @ 0040.

with Mr Mokbel and Mr Richter about matters concerning the restraining orders which were due in court the following week.¹⁶²⁰

1250. On Friday 16 September 2005, Mr Rowe and Mr Mansell introduced Ms Gobbo to Mr Sandy White and Mr Peter Smith of the SDU.¹⁶²¹ During this meeting, Ms Gobbo referred to:
- 1250.1. the trial of Mr Williams for the murder of Mr Marshall¹⁶²²
 - 1250.2. her serious concern that her role in editing Mr McGrath's statements would be discovered¹⁶²³
 - 1250.3. the fact that she had been protected during proceedings in the Magistrates' Court, but the judge at the Supreme Court might rule differently.¹⁶²⁴
1251. During this meeting Ms Gobbo indicated that when she started acting for Mr McGrath the police thought she was a 'stooge' acting in the interests of Mr Carl Williams and Mr Tony Mokbel. Ms Gobbo said it took them a long time for Purana to see otherwise. She referred to having striven to 'turn' Mr McGrath to prove a point.¹⁶²⁵

19 September 2005 - Forwarding of Solicitor 2's Report to Victorian Legal Services Commissioner and AUSTRAC

1252. On 19 September 2005, the Purana Taskforce weekly update recorded that a report was forwarded to the Law Institute regarding the professional conduct of Solicitor 2.¹⁶²⁶ It is apparent that the Purana Taskforce had determined to raise their concerns about Solicitor 2.
1253. Mr Overland, who attended the meeting, made a note of this matter in his diary that day.¹⁶²⁷

September – October 2005 – New Restraining Orders regarding Mokbel

1254. On 25 September 2005, a Purana Taskforce update recorded that hearings were being held in the Supreme Court regarding monies restrained belonging to Mr Mokbel, in the accounts of Mr Noble¹⁶²⁸ Ms Gobbo was appearing for Mr Mokbel in that proceeding.
1255. On the evening of 30 September 2005 Ms Gobbo reported to the SDU that she had been with Messrs Mokbel and Noble all afternoon.¹⁶²⁹

¹⁶²⁰ Exhibit RC0560 Inspector Dale Flynn diary, 16 September 2005, 41, VPL.0010.0007.0001 @ 0041; see also *DPP v Mr Noble and Antonios Mokbel* [2005] VSC 395.

¹⁶²¹ Exhibit RC0281 ICR3838 (001), 16 September 2005, 1, VPL.2000.0003.1587.

¹⁶²² Exhibit RC0267 Transcript of meeting between Paul Rowe, members of the SDU and Steve Mansell, 16 September 2005, 1, VPL.0005.0037.0014.

¹⁶²³ Exhibit RC0267 Transcript of meeting between Paul Rowe, members of the SDU and Steve Mansell, 16 September 2005, 19, VPL.0005.0037.0014 @.0032.

¹⁶²⁴ Exhibit RC0267 Transcript of meeting between Paul Rowe, members of the SDU and Steve Mansell, 16 September 2005, 20, VPL.0005.0037.0014@.0033.

¹⁶²⁵ Exhibit RC0267 Transcript of meeting between Paul Rowe, members of the SDU and Steve Mansell, 16 September 2005, 20, 24, VPL.0005.0037.0014@.0037.

¹⁶²⁶ Exhibit RC0775 Operation Purana Update, 19 September 2005, VPL.0100.0012.0182.

¹⁶²⁷ Exhibit RC0984 Mr Simon Overland diary, 19 September 2005, p502, RCMP1.0133.0001.0001.

¹⁶²⁸ Exhibit RC1748 Operation Purana Update, 25 September 2005, VPL.0100.0012.0183.

¹⁶²⁹ Exhibit RC0281 ICR 3838 (004), 30 September 2005, 20, VPL.2000.0003.1606.

1256. Also on this day, Ms Gobbo attended a meeting with SDU members Mr Sandy White and Mr Peter Smith. At that meeting Ms Gobbo told them that the purpose of the meeting related to a new restraining order served on Mr Mokbel by a member of the Fraud Squad.¹⁶³⁰
1257. On 3 October 2005, a Purana Taskforce update noted that a hearing before the Supreme Court regarding the bank accounts of Mr Noble and Mr Mokbel occurred and a restraining order was granted at this hearing.¹⁶³¹

26 September 2005 – Gobbo Raises Further Concerns about Disclosure with the SDU

1258. On 26 September 2005, Ms Gobbo met again with the SDU. She again raised concerns as to her role with Mr McGrath being revealed in the trial of Mr Carl Williams.
1259. When Ms Gobbo was asked during the meeting if she had spoken to Mr Bateson about the issues she said she had been told not to talk to Mr Bateson.¹⁶³² Mr Sandy White and Mr Peter Smith clarified that this was a different matter, and she needed to keep the pressure on and she should talk to Mr Bateson quite regularly if she had those concerns.¹⁶³³

Solicitor 2's ██████████ Contempt of Court Charges

September 2005 – Two Gangland Trials Taking Place

1260. In September 2005, the trial of Mr Carl Williams commenced for the murder of Mr Mark Moran before Justice King. Solicitor 2 was the instructing solicitor in that matter.
1261. At the same time, another significant gangland related murder trial was taking place in the Supreme Court before Justice Teague.¹⁶³⁴ Mr Gregory and Mr Evangelos Goussis were facing trial for the murder of Mr Lewis Caine on 8 May 2004.¹⁶³⁵ Solicitor 2 had been in a relationship with Mr Caine at the time of his death.¹⁶³⁶
1262. Following his murder, Solicitor 2 had initially assisted police with their enquiries. She later swore a number of affidavits deposing that:
- 1262.1. she had been advised that the information she was providing was being treated as highly confidential and that only a limited number of Purana members were aware of her assistance¹⁶³⁷

¹⁶³⁰ Exhibit RC0281 ICR 3838 (004), 30 September 2005, 20, VPL.2000.0003.1606.

¹⁶³¹ Exhibit RC1748 Operation Purana Update, 3 October 2005, VPL.0100.0012.0175.

¹⁶³² Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 26 September 2005, 228, VPL.0005.0076.0004@.0231.

¹⁶³³ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 26 September 2005, 231-232, VPL.0005.0076.0004 @.0234-.0235.

¹⁶³⁴ Transcript of Commander Stuart Bateson, 2 July 2019, 3413.

¹⁶³⁵ *R v Williams* [2006] VSC 367 (19 July 2006), [46].

¹⁶³⁶ *R v Solicitor 2* [2005] VSC 441, [8].

¹⁶³⁷ *R v Solicitor 2* [2005] VSC 441, [11].

- 1262.2. one of the Purana members with whom she was speaking raised with her the Witness Protection Program (WPP) in the context of whether she was able to provide relevant evidence¹⁶³⁸
- 1262.3. at that time, she was ignorant of Mr Gregory's history and had not received any threats¹⁶³⁹
- 1262.4. not long after she was advised of a direct threat to her life from Mr Gregory which she reported to police¹⁶⁴⁰
- 1262.5. she was then advised of the arrests of Messrs Gregory and Goussis following which she attended the police station and made a statement but did not sign it given her fear for her life.¹⁶⁴¹

26 September 2005 – Solicitor 2 Served with Subpoena to Give Evidence

1263. On 26 September 2005, Solicitor 2 was served with a subpoena requiring her attendance to give evidence in the trial on 30 September 2005.
1264. Following this time, applications were made to set aside the subpoena as an abuse of process.¹⁶⁴²

3 -5 October 2005 – [REDACTED] Application

1265. On 3 October 2005, Mr Heliotis, on behalf of Solicitor 2, moved to have the subpoena set aside as an abuse of process. No ruling on the application was made.¹⁶⁴³
1266. On 4 October 2005, Mr Stephen Shirrefs SC appeared and made an application to have the subpoena set aside. This application was not granted by Justice Teague. After a short adjournment, Mr Shirrefs informed the Court that Solicitor 2 wished to make an application for [REDACTED]
[REDACTED]¹⁶⁴⁴.
1267. Later that afternoon, the Commander of Crime, Superintendent Purton, received a report in relation to the matter from Mr Swindells of Purana. He noted that:
 - 1267.1. Solicitor 2 had 'jumped the box' and [REDACTED] 'trying to use this to abuse [REDACTED] + abort current trial'
 - 1267.2. the Gregory/Goussis trial was adjourned for Solicitor 2 to be [REDACTED]
 - 1267.3. [REDACTED] was to brief Geoff Allway, [REDACTED]
[REDACTED]

¹⁶³⁸ *R v Solicitor 2* [2005] VSC 441, [12].

¹⁶³⁹ *R v Solicitor 2* [2005] VSC 441, [12].

¹⁶⁴⁰ *R v Solicitor 2* [2005] VSC 441, [12].

¹⁶⁴¹ *R v Solicitor 2* [2005] VSC 441, [12].

¹⁶⁴² *R v Solicitor 2* [2005] VSC 441, [12].

¹⁶⁴³ Exhibit RC1857 Prosecution Summary, *R v Solicitor 2; Solicitor 2 v The Queen*, 4 [11], 25 May 2006, RCMP1.0070.0001.0020 @.0097.

¹⁶⁴⁴ Exhibit RC0109 Mr Terry Purton diary, 5 October 2005, 33, VPL.0005.0193.0218 @.0250; Exhibit RC1857 Prosecution Summary, *R v Solicitor 2; Solicitor 2 v The Queen*, 4 [12], 25 May 2006, RCMP1.0070.0001.0020 @.0097.

1267.4. He (Mr Purton) would brief Mr Overland.¹⁶⁴⁵

1268. On 5 October 2005, Mr Purton spoke to Mr Ryan, who was then in charge of the Purana Taskforce. Purton noted that an application was to be prepared for Solicitor 2, that the Committee was to meet later that day or the next to discuss the application, and that the trial was adjourned pending the outcome of the [REDACTED] matter. He spoke again to Mr Ryan later that day in relation to a letter to be sent from Mr Overland to Solicitor 2 requesting an affidavit in relation to the threats and nature of her evidence by the following day.¹⁶⁴⁶

6 October 2006 – Gobbo Takes Instructions from Solicitor 2

1269. On 6 October 2005, Ms Gobbo reported to her handler that she was on route to meet Solicitor 2.¹⁶⁴⁷ Ms Gobbo made five pages of notes in her court book which appear to record to a conference, advice and instructions from Solicitor 2. The notes are undated, however their content indicates they would have been made between 4 and 7 October 2005.¹⁶⁴⁸ In her evidence to the Commission, Ms Gobbo accepted that that she had taken instructions from Solicitor 2.¹⁶⁴⁹

1270. That day, Solicitor 2 swore an affidavit in support of her [REDACTED]

[REDACTED].¹⁶⁵⁰

7 October 2006 – Solicitor 2 Refused [REDACTED]

1271. On the morning of 7 October 2005, Solicitor 2's application was considered. Mr Purton noted that it was refused after consideration for an hour and ten minutes.¹⁶⁵¹

1272. When he first gave evidence to the Commission, Mr Bateson told the Commission that he believed the police ended up [REDACTED] to Solicitor 2 because they saw a refusal to might afford her an opportunity to refuse to give evidence:

You saw your refusal to provide it as possibly - - - ? ---She was going to use it to refuse to give her [REDACTED]. She was going to say, "I can't do it, I'm going [REDACTED]". So I think in the end, from my memory, [REDACTED] her, "All right, if you [REDACTED] you can have it", which of course she refused. She was found guilty of contempt.

So you say that she was [REDACTED] ?---I reckon she was, yeah.¹⁶⁵²

¹⁶⁴⁵ Exhibit RC0109b Mr Terry Purton diary, 4 October 2005, 33, VPL.0005.0193.0218 @.0250.

¹⁶⁴⁶ Exhibit RC0109 Mr Terry Purton diary, 5 October 2005, 34, VPL.0005.0193.0218@.0251.

¹⁶⁴⁷ Exhibit RC0281 ICR 3838, 6 October 2005, 27, VPL.2000.0003.1613.

¹⁶⁴⁸ Exhibit RC0273 Ms Nicola Gobbo court book, volume 4, undated entry, 28-30, MIN.0001.0011.0004 @.0028-.0030; Exhibit RC0273 Ms Nicola Gobbo court book, volume 5, undated entry, 1-2, MIN.0001.0011.0005 @.0001-.0002.

¹⁶⁴⁹ Transcript of Ms Nicola Gobbo, 4 February 2020, 13305.

¹⁶⁵⁰ R v Solicitor 2 [2005] VSC 441, [12].

¹⁶⁵¹ Exhibit RC0109 Mr Terry Purton diary, 10 October 2005, 38, VPL.0005.0193.0218 @.0255.

¹⁶⁵² Transcript of Commander Stuart Bateson, 20 November 2019, 9660 [26]-[35].

1273. Later, Mr Bateson was challenged about his preparedness to give such evidence, given it was clearly incorrect.¹⁶⁵³ Mr Bateson said he had a clear memory of Solicitor 2 being offered it and saying no, although he didn't have a note in relation to the matter. When it was put to Mr Bateson that he was clearly wrong, he said the only thing he could conclude was that the offer to Mr Solicitor 2 was not made 'officially'.¹⁶⁵⁴

7 October 2005 – Bateson observes Gobbo appearing for Solicitor 2

1274. On 7 October 2005, Justice Teague was informed that Solicitor 2's [REDACTED] had been unsuccessful. Solicitor 2 learned this at the same time.¹⁶⁵⁵

1275. That afternoon, Solicitor 2 was called upon to give evidence. She was sworn in as witness and refused to answer any questions when directed to by Justice Teague.¹⁶⁵⁶

1276. Ms Gobbo was appearing on behalf of Solicitor 2.¹⁶⁵⁷

1277. That morning, Mr Bateson had been attending the trial of Mr Carl Williams.¹⁶⁵⁸ When that trial adjourned at lunchtime, he remained at the court to observe the events concerning Solicitor 2.¹⁶⁵⁹ He noted in his diary:

9:30 To Melbourne Supreme Court re trial of Williams ...

13:00 Trial adj. remain at Supreme Court re calling of Solicitor 2 in trial of Goussis/Gregory. Refused to give evidence. Charged with contempt of court.

15:00 RTO [Return to Office]

1278. When it was put to Mr Bateson that it would have been apparent to him that Ms Gobbo was representing Solicitor 2 at court, he responded that 'I don't think we can draw that conclusion from the note...But yeah, I accept that I could have been'.¹⁶⁶⁰

1279. On the evidence, it is open to the Commissioner to find that on 7 October 2005 Mr Bateson was aware that Ms Gobbo was acting on behalf of Solicitor 2 about whom Ms Gobbo had previously provided information to Mr Bateson. That is so because of:

1279.1. the information Ms Gobbo provided to Mr Bateson concerning Solicitor 2 referred to above

¹⁶⁵³ Transcript of Commander Stuart Bateson, 28 November 2019, 10068 [1]-[10].

¹⁶⁵⁴ Transcript of Commander Stuart Bateson, 28 November 2019, 10068 [14]-[25].

¹⁶⁵⁵ *R v Solicitor 2* [2005] VSC 452, [6].

¹⁶⁵⁶ *R v Solicitor 2* [2005] VSC 441, [31].

¹⁶⁵⁷ Exhibit RC1857 Prosecution Summary, *R v Solicitor 2; Solicitor 2 v The Queen*, 5 [15], 25 May 2006, RCMP1.0070.0001.0020 @.0098; Exhibit RC0273 Ms Nicola Gobbo diary and court books, 19 September 2005, 28-30, MIN.0001.0011.0004 @.0028-0030; Exhibit RC0273 Ms Nicola Gobbo diary and court books, 7 October 2005, 1-2, MIN.0001.0011.0005 @.0001-0002.

¹⁶⁵⁸ Exhibit RC0772 Commander Stuart Bateson day book, 7 October 2005, 64, VPL.0005.0058.0233 @.0296.

¹⁶⁵⁹ Exhibit RC0772 Commander Stuart Bateson day book, 7 October 2005, 64, VPL.0005.0058.0233 @.0296.

¹⁶⁶⁰ Transcript of Commander Stuart Bateson, 28 November 2019, 10064 [1]-[3].

- 1279.2. **Mr Bateson's interest in the investigation of Solicitor 2**
- 1279.3. **the Purana Taskforce's efforts to have Solicitor 2's ability to practice investigated by a professional body**
- 1279.4. **the potential impact upon Solicitor 2's ability to continue as instructing solicitor in the Williams case**
- 1279.5. **Mr Bateson's 7 October 2005 day book note.**

1280. It was further put to Mr Bateson that assuming he knew Ms Gobbo was appearing for Solicitor 2, that it would have struck him as odd that a barrister was appearing in court for someone she was informing on.¹⁶⁶¹ Mr Bateson responded:

*Look, I'm not sure. Look, thinking back now if I was aware of that, and that's an if, you know, she wasn't there representing her about money laundering, and if she was - because that's what she was providing information about - I perhaps would have been more concerned.*¹⁶⁶²

10 October 2005 – Purton Awareness of Gobbo Acting for Solicitor 2

1281. On Monday, 10 October 2005, Mr Purton was updated by Mr Ryan about the events in relation to Ms Gobbo the previous Friday, 7 October 2005. Mr Ryan informed Mr Purton that Ms Gobbo had appeared for Solicitor 2.¹⁶⁶³
1282. These matters were reported in a Purana Taskforce weekly meeting held that day.¹⁶⁶⁴

Proceedings against Solicitor 2

1283. On 12 October 2005, the DPP commenced the proceeding by Originating Motion against Solicitor 2 for contempt of court.¹⁶⁶⁵ The matter was heard before Justice Harper.
1284. On 18 October 2005, Mr Bateson attended the Supreme Court for the hearing of the charges against Solicitor 2, as well as the Williams trial.¹⁶⁶⁶
1285. On 9 November 2005, Solicitor 2 was found guilty of contempt of court for refusing to answer questions.¹⁶⁶⁷
1286. On 17 November 2005, the hearing for the plea took place.¹⁶⁶⁸
1287. On 22 November 2005, Solicitor 2 was sentenced by the Supreme Court. His Honour ordered that a conviction be recorded but no further penalty be

¹⁶⁶¹ Transcript of Commander Stuart Bateson, 28 November 2019, 10064 [33]-[37].

¹⁶⁶² Transcript of Commander Stuart Bateson, 28 November 2019, 10064 [39]-[43].

¹⁶⁶³ Exhibit RC0633 Mr Terry Purton diary, 10 October 2005, 38, VPL.0005.0193.0218 @.0255.

¹⁶⁶⁴ Exhibit RC0775 Operation Purana Update, 10 October 2005, 1, VPL.0100.0012.0172.

¹⁶⁶⁵ *R v Solicitor 2* [2005] VSC 441, [31].

¹⁶⁶⁶ Exhibit RC0772 Commander Stuart Bateson day book, 18 October 2005, 64, VPL.0005.0058.0233@.0298.

¹⁶⁶⁷ *R v Solicitor 2* [2005] VSC 441, [49].

¹⁶⁶⁸ *DPP v Solicitor 2* [2006] VSCA 295, [6].

imposed. His reasons for sentence noted a number of exceptional circumstances in the case. One of these had been that when Victoria Police had been served with summonses to produce documents for Mr Gregory's committal proceedings, which included documents which contained or referred to statements made by Solicitor 2, the police objected to their production on the grounds of public interest immunity. He noted that this claim had been made asserting that the documents were provided in confidence by her and their disclosure would place her in danger.¹⁶⁶⁹

1288. Notably, the police had been forthright in a claim for PII on the basis of the need to protect the safety of Solicitor 2. A court was provided with the information and determined the validity of the PII claim. This is to be contrasted with the way in which the police dealt with such issues relating to Ms Gobbo.
1289. Regular updates were given at Purana Taskforce meetings during this period, including on 28 November 2005, a Purana Taskforce update noted that Solicitor 2 was convicted with no penalty over her contempt matters.¹⁶⁷⁰
1290. On 12 December 2005, the OPP served a notice of appeal over the sentence for contempt of court.¹⁶⁷¹ On 6 February 2006, proceedings commenced regarding the appeal by the DPP over the sentence of Solicitor 2¹⁶⁷². On 19 December 2006, the appeal initiated by the DPP was dismissed by the Court of Appeal of the Supreme Court of Victoria.¹⁶⁷³

¹⁶⁶⁹ *R v Solicitor 2* [2005] VSC 441, [12].

¹⁶⁷⁰ Exhibit RC0775 Operation Purana Update, 24 October 2005, 1, VPL.0100.0012.0174; Exhibit RC0775 Operation Purana Update, 7 November 2005, 1, VPL.0100.0012.0167; Exhibit RC0755 Operation Purana Update, 28 November 2005, VPL.0100.0012.0166.

¹⁶⁷¹ Exhibit RC1748 Operation Purana Update, 12 December 2005, VPL.0100.0012.0048.

¹⁶⁷² Exhibit RC1748 Operation Purana Update, 6 February 2006, VPL.0100.0012.0066.

¹⁶⁷³ *DPP v Solicitor 2* [2006] VSCA 295, [26].

CHAPTER 10 - 2005 TO 2006 – THE RECRUITMENT AND USE OF GOBBO AS A HUMAN SOURCE

Introduction

1291. The matters dealt with in this section of the submissions concern Ms Gobbo's third formal registration as a human source. This includes her recruitment, handling and management as a registered human source and disclosures about those matters.
1292. It is submitted that from the outset, the use of Ms Gobbo as a human source was fraught. The plan by members of Victoria Police involved included using Ms Gobbo, a barrister, to assist them to obtain incriminating evidence against those she represented so that they might be convicted and imprisoned.¹⁶⁷⁴
1293. The failure to obtain legal advice prior to or during Ms Gobbo's registration as a human source is the subject of consideration at a number of places within this submission.
1294. As has been the historic experience with noble cause corruption, it is submitted that the evidence demonstrates that as time went on, further and consequential perversions occurred which were tolerated, condoned or encouraged by members of Victoria Police. This included Ms Gobbo representing those whom law enforcement authorities had charged as a result of incriminating information supplied by her, and the non-disclosure of material in order to conceal her role as a human source or her involvement as a lawyer to those of her clients who she advised to assist Victoria Police.
1295. It is submitted that there were various points in time where police members involved ought to have reflected upon their use of Ms Gobbo and what that meant given their role within the justice system, the oath that they swore and the duties owed by them.
1296. Without unnecessarily duplicating matters dealt with in more detail in the case studies, the matters below reveal some of that conduct.

Bickley & the Recruitment of Gobbo

Previous Flirts with Informing

Earlier Registrations and Information Sharing

1297. Victoria Police had previously registered Ms Gobbo as a human source on two other occasions, in 1995 and 1998. She had also been unofficially

¹⁶⁷⁴ An obvious early example occurred during Ms Gobbo's first meeting with Mr Sandy White and Mr Peter Smith on 16 September 2005, when the first substantive question of Ms Gobbo was "... then tell me everything you know about Tony Mokbel" see Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 14-15, VPL.0005.0051.0002 @.0015-.0016.

sharing information with Mr De Santo and Mr Strawhorn in the manner set out in previous chapters.

1298. Also set out in more detail in previous chapters were the following events:
- 1298.1. 22 September 2003 – Approach by Mr Swindells of Purana to Ms Gobbo following threats to her by Mr Andrew Veniamin for perceived disloyalty by virtue of her representation of Mr Lewis Moran.
 - 1298.2. 9 April 2004 – Ms Gobbo’s offer of information to Mr Allen of Purana about leaks within the Purana Taskforce, in the context of discussion where Ms Gobbo was speaking to him about her representation of Mr McGrath and concerns about her having conflicts with Messrs Carl Williams, Tony Mokbel and Thomas.
 - 1298.3. 18 June 2004 – In the context of Mr McGrath’s pending co-operation and Ms Gobbo’s fear of reprisal if her involvement in his representation should become known, Mr Bateson indicated to Ms Gobbo that Purana’s ‘door is always open’ if she needed assistance.
 - 1298.4. 1 July 2004 – In the course of being interviewed by Homicide Squad Detectives as part of the Hodson murder investigation, Ms Gobbo indicated dissatisfaction at representing ‘these people’ referring to clients including Mr Tony Mokbel, Mr Azzam Ahmed and others. It was suggested to Ms Gobbo that she might hear things that might be of assistance to investigators in solving the case. There then ensued a conversation which was essentially about her anonymity if she provided such information.
 - 1298.5. May to September 2005 – Ms Gobbo had been providing information to Detective Sergeant Bateson of the Purana Taskforce in relation to Solicitor 2, Messrs Tony Mokbel, Carl and George Williams (each of whom she had represented or continued to represent during that year). In June 2006, the executive management team overseeing the Purana Taskforce, including Messrs Overland and Purton, had been informed via a weekly written update that ‘defence barrister Nicola Gobbo attempted to make contact with Operation Purana members offering information. Her motives for this are yet to be established.’¹⁶⁷⁵ Mr Purton’s diary notes from the meeting indicate that they were told that Ms Gobbo was to meet with Mr Bateson in relation to that matter.
1299. Importantly, for the events that follow in this submission and the players involved, there was one further revealing matter. Mr Sandy White told the Commission that around the time Ms Gobbo had a stroke and was admitted to hospital, which had occurred in July 2004, he and Mr O’Brien had previously considered the possibility that Ms Gobbo could be recruited as a human source.

¹⁶⁷⁵ Exhibit RC775 Purana Taskforce update, 6 June 2005, VPL.0100.0012.0112.

1300. Mr O'Brien told the Commission had no recollection of this discussion,¹⁶⁷⁶ although he did not dispute it. There is evidence before the Commission indicating an interest by the MDID in Ms Gobbo at around that time:
- 1300.1. In August 2004, Mr O'Brien was receiving feedback from members of the MDID that Ms Gobbo's contact with her clients went beyond that of a normal lawyer/client relationship.¹⁶⁷⁷
- 1300.2. On 10 August 2004, Mr O'Brien recorded in his diary a meeting in relation to Operation Gruel (an investigation into Mr Azzam Ahmed, his brother and others). This was attended by Messrs Shawyer, O'Brien, Sandy White, Mansell, Rowe, and MDID analyst Ms Natalie Bannon. They discussed telephone intercepts in relation to a number of targets, and Mr O'Brien instructed that members were to submit information reports in relation to contacts with Ms Gobbo in order to work towards a possibility telephone intercept for her.¹⁶⁷⁸
- 1300.3. On 16 August 2004, Mr Ahmed was arrested by a member from Brighton Police Station. A water account belonging to Ms Gobbo was found in Mr Ahmed's car and logged in the exhibit list. The MDID was notified of the arrest and received a briefing. MDID members, Mr Peter Brezing and Ms Natalie Bannon attended at the Brighton Police Station the following morning to view seized exhibits.¹⁶⁷⁹ The MDID were interested as at the time Mr Ahmed was on bail for charges laid by them in Operation Galop.
- 1300.4. On 26 August 2004, the MDID produced a profile of Ms Gobbo, which included reference to her water account.¹⁶⁸⁰
1301. At that time, Mr Sandy White was a member of the [REDACTED], but also involved in projects related to human source management. In 2004, he was in the process of preparing to lead the pilot of the SDU which commenced in November 2004. Mr Sandy White said he had a belief Ms Gobbo might be valuable as a recruit because of her links to a significant number of criminals.¹⁶⁸¹

Corralling Ms Gobbo's Informing

1302. Mr Biggin recalled being told by Mr Sandy White about Ms Gobbo's registration that Ms Gobbo had been speaking to a number of police, and her registration was an attempt to try and corral her provision of information into a single location.¹⁶⁸²

¹⁶⁷⁶ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5485, TRN.2019.09.04.01.

¹⁶⁷⁷ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 9 [40], VPL.0014.0040.0001, @.0009.

¹⁶⁷⁸ Exhibit RC0456 Mr James (Jim) O'Brien diary, 10 August 2004, 87, RCMPI.0053.0001.0003.

¹⁶⁷⁹ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, VPL.0005.0147.0001.

¹⁶⁸⁰ Exhibit RC1162 Major Drug Investigation Division Profile of Ms Nicola Gobbo, 26 August 2004, VPL.0099.0113.2576.

¹⁶⁸¹ Transcript of Mr Sandy White, 31 July 2019, 3642, TRN.2019.07.31.01.

¹⁶⁸² Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7474, TRN.2019.10.09.01.

Operation Quills

Background

1303. In April 2005 MDID's Operation Quills commenced investigating the manufacture and trafficking of MDMA (XTC) tablets by Mr Bickley [REDACTED] [REDACTED] involved in the manufacture of MDMA tablets at [REDACTED]. Investigators established that [REDACTED] working for Mr Tony Mokbel.¹⁶⁸³
1304. Police members involved in Operation Quills included Detective Senior Sergeant Jim O'Brien, Detective Sergeant Dale Flynn, Detective Sergeant Steve Mansell and Detective Senior Constable Paul Rowe.

Mid-August – Arrest of Bickley [REDACTED]

1305. On 15 August 2005, Mr Bickley [REDACTED] [REDACTED] arrested following the execution of a warrant on the premises at [REDACTED].¹⁶⁸⁴
1306. The following day, on 16 August 2005, Mr Bickley was charged with trafficking MDMA [REDACTED] in a large commercial quantity between 5 August 2005 and 15 August 2005, and possession of cocaine on 15 August 2005.¹⁶⁸⁵ The prosecution case was that Mr Bickley, [REDACTED] [REDACTED] working for Mr Tony Mokbel in relation to the manufacturing and trafficking of ecstasy tablets [REDACTED] [REDACTED].¹⁶⁸⁶ Mr Rowe became the informant in Mr Bickley's matter.
1307. When Mr Bickley was initially interviewed by police, he gave a 'no-comment' interview and declined to co-operate with authorities.¹⁶⁸⁷ He was remanded in custody for 23 days, before being released on bail on 6 September 2005.¹⁶⁸⁸
1308. The Commission heard conflicting evidence as to whether Mr Bickley asked interviewing police to contact Ms Gobbo,¹⁶⁸⁹ or whether the interviewing police suggested to Mr Bickley that he should contact Ms Gobbo.¹⁶⁹⁰ It is submitted that the Commissioner need not resolve that conflict.
1309. Ms Gobbo stated that she was unacquainted with Mr Bickley prior to his arrest on 15 August 2005.¹⁶⁹¹ Ms Gobbo stated she was unable to attend to Mr Bickley immediately, and she arranged for a solicitor to act on his

¹⁶⁸³ Further details of Operation Quills are set out in the case analyses concerning [REDACTED] and Mr Bickley.

¹⁶⁸⁴ Exhibit RC1887 Transcript of Proceedings, *R v CD* (County Court Melbourne, 9 May 2007, Judge Williams), 2, RCMP1.0042.0001.0003 @.0002-.0003.

¹⁶⁸⁵ See Exhibit RC1853 Presentment No. C0504741.1, 28, OPP.0039.0001.0003 @.0028.

¹⁶⁸⁶ The Court accepted that 'under [Mr Mokbel's] directions and with his encouragement' Mr Bickley purchased necessary machinery, arranged for its placement and operation, obtained raw product, and was subsequently involved in the manufacture of ecstasy tablets: Exhibit RC1860 Reasons for Sentence *R v CD* [2007] VCC, [9], RCMP1.0042.0001.0005 @.0003-.0004.

¹⁶⁸⁷ Exhibit RC1860 Reasons for Sentence, *R v CD* [2007] VCC, 4 [11], RCMP1.0042.0001.0005 @.0004.

¹⁶⁸⁸ Exhibit RC1859 *R v CD* [2007] VCC, [10] – RCMP1.0042.0001.0005 @.0004.

¹⁶⁸⁹ Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3249, TRN.2019.06.28.01.

¹⁶⁹⁰ Transcript of Mr Bickley, 18 November 2019, 9303-4, TRN.2019.11.18.01.

¹⁶⁹¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 12, 21 November 2016, 3, COR.1000.0001.00097 @.0003.

behalf,¹⁶⁹² then later that day visited him at the Melbourne Custody Centre.¹⁶⁹³ Ms Gobbo stated that she later became aware that Mr Bickley received her phone number through Mr Tony Mokbel.¹⁶⁹⁴

17 August 2005 – Gobbo Informs to Flynn

1310. On 17 August 2005, Ms Gobbo spoke with Mr Flynn. They spoke about Ms Gobbo not having been contacted following Mr Bickley's arrest and the police having called her on a number she was no longer using.¹⁶⁹⁵
1311. Ms Gobbo told Mr Flynn she had arranged for Mr Hargreaves to speak with Mr Bickley but she was now concerned that Solicitor 2 was speaking to [REDACTED]. Ms Gobbo told Mr Flynn she was concerned that Solicitor 2 was working on behalf of Tony Mokbel and giving instruction [REDACTED] on behalf of Mr Mokbel. Ms Gobbo accused Solicitor 2 of committing the offence of 'perverting the course of justice'. Mr Flynn told Ms Gobbo he would investigate the matter to see if [REDACTED] would tell them what was being said. Mr Flynn then notified Detective Inspector Shawyer and Mr O'Brien about the matter.¹⁶⁹⁶

31 August 2005 – Gobbo Appears for Bickley

1312. Ms Gobbo first appeared on Mr Bickley's behalf, instructed by Solicitor 2, in relation to a scheduled bail application on 31 August 2005.¹⁶⁹⁷
1313. Ms Gobbo stated that she visited Mr Bickley at the Melbourne Assessment Prison on the day prior to his bail application in order to obtain instructions.¹⁶⁹⁸ The Commission is not in possession of independent material recording this visit.
1314. The bail application did not proceed on 31 August 2005, as no gaol order had been requested.¹⁶⁹⁹ Ms Gobbo is recorded as having visited Mr Bickley in custody on that day.¹⁷⁰⁰

31 August 2005 – Rowe and Mansell 'Recruit' Gobbo

1315. On 31 August 2005, on the morning of a scheduled bail application for Mr Bickley, Ms Gobbo spoke with the Mr Rowe, and raised several issues. She said she had listened to Mr Bickley's record of interview and had concerns about a potential conflict with Mr Tony Mokbel, in that answers elicited during any cross-examination of police upon the bail application for Mr Bickley might be adverse to the interests of her client, Mr Tony Mokbel.¹⁷⁰¹

¹⁶⁹² Exhibit RC0281 ICR3838 (001), 16 September 2005, 3, VPL.2000.0003.1587 @.1589.

¹⁶⁹³ Exhibit RC1365 Letter from Nicola Gobbo to Presiding Judge, County Court of Victoria, undated, 1, MIN.5000.0001.9354 @.9354; Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 26-27, VPL.0005.0037.0014 @.0039-.0040.

¹⁶⁹⁴ Exhibit RC0281 ICR3838 (001), 16 September 2005, 3, VPL.2000.0003.1589.

¹⁶⁹⁵ Exhibit RC0542, Inspector Dale Flynn diary, 17 August 2005, 5, VPL.0098.0059.0004 @.0008.

¹⁶⁹⁶ Exhibit RC0542, Inspector Dale Flynn diary, 17 August 2005, 5, VPL.0098.0059.0004 @.0008.

¹⁶⁹⁷ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 31 August 2005, 59, OPP.0001.0004.0025 @.0083.

¹⁶⁹⁸ Exhibit RC1365 Letter from Nicola Gobbo to Presiding Judge, County Court of Victoria, undated, 2, MIN.5000.0001.9354 @.9355.

¹⁶⁹⁹ Exhibit RC0281 ICR3838 (001), 16 September 2005, 3, VPL.2000.0003.1589.

¹⁷⁰⁰ Exhibit RC1570 Archive Visit Enquiry for Mr Bickley, 31 August 2005, CNS.0001.0003.1124.

¹⁷⁰¹ Exhibit RC0281 ICR3838 (001), 16 September 2005, 3, VPL.2000.0003.1589.

She also said she did not want to represent Mr Bickley if it was not in his best interest but felt compelled to do so by Mr Tony Mokbel.

1316. Not long after raising this conflict, in early September 2005 Ms Gobbo also attended in custody upon [REDACTED], and advised him in relation to [REDACTED].¹⁷⁰² It is submitted that the conflict of interest she had between her clients Mr Bickley [REDACTED] would have been obvious to her.
1317. In the conversation on 31 August 2005 Mr Rowe suggested that he and Mr Mansell would attend court early in order to discuss the matter in person with Ms Gobbo.¹⁷⁰³ Mr Rowe gave evidence that police had long suspected that Mr Tony Mokbel was exercising control over the legal representation used by those associated with him, and that Ms Gobbo may herself have been involved in some level of criminality. Mr Rowe and Mr Mansell spoke with Mr O'Brien who instructed them to record the conversation with Ms Gobbo.¹⁷⁰⁴
1318. Mr Rowe and Mr Mansell attended court that morning and spoke with Ms Gobbo and covertly recorded the conversation. At the conclusion of this conversation it was suggested Ms Gobbo speak to Mr Rowe and Mr Mansell further at a location away from court, which was agreed.
1319. Mr Rowe and Mr Mansell returned to the office, and briefed Mr O'Brien. Mr O'Brien again instructed them to record the further conversation with Ms Gobbo.¹⁷⁰⁵ Mr Rowe and Mr Mansell collected Ms Gobbo from the court precinct and drove to a location where they had a longer conversation, which they again recorded.
1320. Victoria Police informed the Commission that neither of the recordings of the conversations with Ms Gobbo that day have been located.¹⁷⁰⁶
1321. Mr Rowe gave evidence of the following matters in relation to one or both of the meetings with Ms Gobbo that day:
- 1321.1. at court Ms Gobbo appeared visibly upset¹⁷⁰⁷
- 1321.2. Ms Gobbo was very open and candid in what she spoke about¹⁷⁰⁸
- 1321.3. she confirmed the types of matters she had referred to on the phone

¹⁷⁰² Exhibit RC0281 ICR3838 (007) 25 October 2005, 38, VPL.2000.0003.1623.1624.

¹⁷⁰³ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 31 August 2005, 111, RCMP1.0068.0002.0001 @.0111; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3250, TRN.2019.06.28.01.

¹⁷⁰⁴ Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3250-1, TRN.2019.06.28.01.

¹⁷⁰⁵ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 4 [23], VPL.0014.0035.0001 @.0004.

¹⁷⁰⁶ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 4 [26], VPL.0014.0035.0001 @.0004.

¹⁷⁰⁷ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 3 [20], VPL.0014.0035.0001 @.0003; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3252-3, TRN.2019.06.28.01.

¹⁷⁰⁸ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 3 [20], VPL.0014.0035.0001 @.0003; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3252-3, TRN.2019.06.28.01.

- 1321.4. Ms Gobbo told them the ways in which she would obtain information from clients (such as Mr Bickley), which would be used for the benefit of Mr Tony Mokbel and his associates¹⁷⁰⁹
- 1321.5. Ms Gobbo expressed concerns about her own reputation and over whether she had committed criminal offences in relation to her assistance to Mr Tony Mokbel¹⁷¹⁰
- 1321.6. Ms Gobbo spoke about the pressure and stress she felt, her health issues and safety issues¹⁷¹¹
- 1321.7. towards the end of the conversation at court Mr Mansell said to Ms Gobbo something to the effect 'you should get on board' to which she responded to the effect 'if anyone finds out I'd end up dead'¹⁷¹²
- 1321.8. Mr Rowe was surprised by what she was telling them and uncomfortable that the conversation was occurring in a public area. Mr Mansell indicated they should talk further that afternoon, and Ms Gobbo's phone numbers were obtained for that purpose¹⁷¹³
- 1321.9. a decision was made with Mr O'Brien and Mr Mansell after the conversation at court to have an open conversation to understand what information she might be able to provide and if she was interested in co-operating¹⁷¹⁴
- 1321.10. during the second conversation Ms Gobbo seemed to vent to get a lot of information off her chest, covering a lot of different topics, but not in detail. These included how Mr Tony Mokbel's assets had been concealed and how he laundered money and concern she was being paid with proceeds of crime¹⁷¹⁵
- 1321.11. Ms Gobbo spoke of her feelings of conflict in relation to Mr Bickley as Mr Tony Mokbel expected her to ensure he did not co-operate with police, which she felt was against his interests¹⁷¹⁶

¹⁷⁰⁹ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 3 [20], VPL.0014.0035.0028 @.0030; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3253, TRN.2019.06.28.01.

¹⁷¹⁰ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 3 [20], VPL.0014.0035.0028 @.0030; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3253, TRN.2019.06.28.01.

¹⁷¹¹ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 3 [20], VPL.0014.0035.0028 @.0030; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3253, TRN.2019.06.28.01.

¹⁷¹² Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 3 [21], VPL.0014.0035.0028 @.0030; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3253, TRN.2019.06.28.01.

¹⁷¹³ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 4 [22], VPL.0014.0035.0028 @.0031; Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3255, TRN.2019.06.28.01.

¹⁷¹⁴ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 4 [23], VPL.0014.0035.0028 @.0031.

¹⁷¹⁵ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 4 [27] – 5 [29], VPL.0014.0035.0028 @.0031 - .0032.

¹⁷¹⁶ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 5 [30], VPL.0014.0035.0028 @.0032.

1321.12. Ms Gobbo was going to be acting for [REDACTED], which she would use to avoid having to represent Mr Bickley¹⁷¹⁷

1321.13. Ms Gobbo saw aligning herself with Victoria Police as a way out of her arrangement with Mr Tony Mokbel.¹⁷¹⁸

1322. At the end of the second meeting Mr Rowe and Mr Mansell spoke with Ms Gobbo about the process involved in her co-operating with police. Ms Gobbo was concerned she would be killed if her co-operation with police was discovered and wanted assurances she would be looked after. Mr Rowe and Mr Mansell told her that she would be managed by specialists. Mr Rowe felt by the end of the conversation Ms Gobbo had decided to co-operate.¹⁷¹⁹

1323. That afternoon Mr O'Brien spoke with Mr Ryan, the OIC of the Purana Taskforce, in relation to the Gobbo issues.¹⁷²⁰ Mr Rowe recalled that Mr O'Brien also spoke with Mr Sandy White at the SDU.¹⁷²¹

1 September 2005 – Further Contact between Gobbo and Rowe

1324. The following day, on 1 September 2005 Ms Gobbo told Mr Rowe that she had received an enquiry from Mr Tony Mokbel asking why Mr Bickley's bail application had not proceeded.¹⁷²²

1325. Ms Gobbo also spoke with Mr Bateson as to a 'run in with Drug Squad which ended in her crying'. He observed in his notes that 'she obviously wanted to push that she is not and would not involve herself in any criminal activity'.¹⁷²³

1 September 2005 – Gobbo Advises [REDACTED]

1326. [REDACTED] later, on [REDACTED] September 2005, Ms Gobbo appeared on behalf of [REDACTED], at a bail application. [REDACTED] was granted bail on that occasion. [REDACTED]

1327. [REDACTED]

¹⁷¹⁷ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 5 [30], VPL.0014.0035.0028 @.0032.

¹⁷¹⁸ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 5 [31], VPL.0014.0035.0028 @.0032.

¹⁷¹⁹ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 5 [32], VPL.0014.0035.0028 @.0032.

¹⁷²⁰ Exhibit RC0933 Mr James (Jim) O'Brien diary, 31 August 2005, 92, RCMPI.0053.0001.0003 @.0092.

¹⁷²¹ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 8 June 2019, 5 [34], VPL.0014.0035.0028 @.0031.

¹⁷²² Exhibit RC1381 Detective Sergeant Paul Rowe diary, 1 September 2005, 26, VPL.0005.0107.0001 @.0026.

¹⁷²³ Exhibit RC0272 Commander Stuart Bateson diary, 1 September 2005, 51-52, VPL.0005.0058.0233 @.0283-.0284.

¹⁷²⁴ Exhibit RC1381 Detective Sergeant Paul Rowe, diary, [REDACTED] September 2005, 29, VPL.0005.0107.0001 @.0029.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The concealment of Ms Gobbo's role in providing clients advice to co-operate with police was already an issue in relation Mr McGrath, and, it is submitted, would become a constant refrain.

1328. Later that day, Acting Superintendent Robert Hill of the MDID requested assistance from the SDU to assess Ms Gobbo for registration as a human source.¹⁷²⁹

8 September 2005 – SDU/MDID Discussion about Gobbo Plan

1329. The following day, on 8 September 2005, Mr Hill, Detective Inspector Adrian White, Mr Mansell and Mr Rowe met with Mr Sandy White of the SDU to discuss Ms Gobbo being assessed as a human source. Operation Quills was discussed, together with Ms Gobbo's fears that she was under surveillance and may be killed. The attendees discussed the fact that Ms Gobbo was well-known to numerous police and there was some prospect that she had spoken about her discussions with Mr Mansell and Mr Rowe with other police members.¹⁷³⁰

1330. Later that afternoon, Detective Inspector Shawyer telephoned Mr Hill to discuss Mr O'Brien being deployed to the Purana Taskforce.¹⁷³¹

12 September 2005 – Overland Advised of MDID Plan to Use Gobbo as a Human Source

1331. On 12 September 2005, a Purana Taskforce meeting took place at which Mr Overland was present. As well as receiving information from the Purana Taskforce weekly update Mr O'Brien, who was Acting OIC of Purana in the absence of Mr Ryan, included in his diary the following:

Discussion re Solicitor Nicola Gobbo + opportunities re Op Quills to consider [coercive] hearing to Discussed (sic) recent AFP Investigation re Mokbel + A/C (Overland) query re Mokbel State Charges brief + timeframes¹⁷³²

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹⁷²⁹ Exhibit RC0115 Request for Assistance, Source Development Unit (for Nicola Gobbo), Date of Request 7 September 2005, VPL.2000.0002.0712; See also Exhibit RC0284 SML3838, 7 September 2005, 1, VPL.2000.0001.9447 @.9447.

¹⁷³⁰ See also Exhibit RC0284 SML3838, 8 September 2005, 1, VPL.2000.0001.9447 @.9447.

¹⁷³¹ Exhibit RC117 Mr Robert Hill diary, 8 September 2005, 3, VPL.0005.0013.0892 @.0894.

¹⁷³² Exhibit RC0933 Mr James (Jim) O'Brien diary, 12 September 2005, 3, VPL.0005.0153.0014 @.0016.

1332. Mr O'Brien recalls being told at this meeting that he would be taking over the Purana Taskforce as its Detective Acting Inspector,¹⁷³³ a role he officially commenced in November 2005.
1333. Mr O'Brien was aware of the Operation Posse assessment and developed an investigation plan [the Operation Posse investigation plan] which consolidated a number of separate drug investigations being conducted by MDID and the Purana Taskforce into Mr Tony Mokbel and his associates into a single investigation.¹⁷³⁴

1334. **On the evidence, it is open to the Commissioner to find that by 12 September 2005, prior to Ms Gobbo's third registration, at least each of Mr Rowe,¹⁷³⁵ Mr Mansell,¹⁷³⁶ Mr Hill,¹⁷³⁷ Mr Ryan,¹⁷³⁸ Mr O'Brien¹⁷³⁹ and Mr Overland¹⁷⁴⁰ knew that Ms Gobbo was acting for Mr Tony Mokbel, who was the focus of Operation Quills, and that her use as a human source against her client, Mr Tony Mokbel was being considered.**

14 September 2005 – Gobbo Speaks to Bateson about MDID Recruitment

1335. On 14 September 2005, Ms Gobbo contacted Mr Bateson and told him that she was meeting with Mr Mansell. Ms Gobbo asked Mr Bateson whether she was able to tell Mr Mansell about her previous dealings with Mr Bateson. Mr Bateson told Ms Gobbo he was happy for her to do so and then informed Mr O'Brien of that conversation.¹⁷⁴¹

¹⁷³³ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5515, TRN.2019.09.04.01.

¹⁷³⁴ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5469, TRN.2019.09.04.01; Statement of Mr Craig Hayes, 25 July 2019, 4 [24], VPL.0014.0044.0001 @.0004.

¹⁷³⁵ By reference to the evidence identified previously.

¹⁷³⁶ By reference to the evidence identified previously.

¹⁷³⁷ By reference to the evidence identified previously.

¹⁷³⁸ By reference to the evidence identified previously.

¹⁷³⁹ By reference to the evidence identified previously.

¹⁷⁴⁰ Exhibit RC1673 Email from Anthony (Tony) Biggin to Kevin Loomes, copying Terry Purton and Simon Overland, 28 January 2005, VPL.0099.0113.0742, confirming that Ms Gobbo appearing as junior counsel for Mr Mokbel in his committal proceedings in relation to Operation Kayak which were due to commence three days later.

Mr Overland's evidence on this issue at Transcript of Mr Simon Overland, 16 December 2019, 11316, RC_MPI_16Dec19_provisional included:

Mr Winneke: You understand, or you understood when you found out that Ms Gobbo was being utilised as a human source, that in fact she was being used to provide information against the Mokbel syndicate of which Tony Mokbel was the head, if you like?

Mr Overland: Yes.

Mr Winneke: Right. I take it you would also have been aware that in late 2005, 2006 previously Ms Gobbo was acting for Mr Mokbel in relation to drug charges brought by the Commonwealth?

Mr Overland: Look, I believe so but I don't have a particularly clear recollection of that.

Mr Winneke: No, all right. In due course we might put in front of you at least newspaper articles which make it clear that Ms Gobbo was acting for Mr Mokbel?

Mr Overland: Yes.

Mr Winneke: At the time?

Mr Overland: I accept that she was acting for Mr Mokbel at the time.

Mr Winneke: You would have been aware of that at the time?

Mr Overland: I assume so but I don't have a specific recollection of that.

¹⁷⁴¹ Exhibit RC0272 Commander Stuart Bateson diary, 1 September 2005, 55-56, VPL.0005.0058.0233 @.0287-.0288.

15 September 2005 – Gobbo Informs to Bartlett (MDID) about Mokbel at Court

1336. On 15 September 2005, Ms Gobbo spoke to Detective Senior Constable Bartlett while at court. Ms Gobbo told Mr Bartlett that Mr Luxmore was cooking methamphetamine for Mr Tony Mokbel.¹⁷⁴² Mr Bartlett reported this to Mr O'Brien.¹⁷⁴³ As set out above, Mr Tony Mokbel was Ms Gobbo's client at that time.

Early Victoria Police Expectation as to Ms Gobbo's Use as a Human Source

1337. Given the foregoing, and in particular the focus on the activities of the Mokbel family, Victoria Police was particularly interested in the use of Ms Gobbo as a human source. By this stage it had been identified that Ms Gobbo could assist in providing intelligence relevant to the Mokbel family and its alleged criminal enterprises, which was part of the focus of the Purana Taskforce's Operation Posse as well as the MDID.

1338. It is likely that Victoria Police initially thought that Ms Gobbo would be helpful to investigators in relation to the MDID investigation of Operation Quills.¹⁷⁴⁴ However, following the SDU assessment and debriefing of Ms Gobbo from 16 September 2005 it became apparent to Purana detectives that Ms Gobbo possessed information which would be of much greater assistance to its investigations.¹⁷⁴⁵

Gobbo Registered for the Third Time by Victoria Police

16 September 2005 – First Meeting between the SDU and Gobbo

1339. On Friday 16 September 2005, Mr Rowe and Mr Mansell introduced Ms Gobbo to Mr Sandy White and Mr Peter Smith of the SDU.

1340. At the commencement of that meeting, Ms Gobbo asked Mr Sandy White whether the meeting would be recorded, to which Mr Sandy White replied:

*I give you an undertaking today while we just explore each other, but I'm not gunna put that tape-recorder down and start tape-recording you.*¹⁷⁴⁶

1341. Nonetheless, the meeting was covertly recorded.

1342. After some further general discussion, the following exchange took place:

MR SANDY WHITE: So where do we start?

¹⁷⁴² Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 4, VPL.0005.0126.0001 @.0004.

¹⁷⁴³ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 4, VPL.0005.0126.0001 @.0004.

¹⁷⁴⁴ Transcript of Mr Simon Overland, 16 December 2019, 11427-8, TRN.2019.12.16.01; Exhibit RC0933 Mr James (Jim) O'Brien diary, 12 September 2005, 3, VPL.0005.0153.0014 @.0016; Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5514-5515, TRN 2019.09.04.01.

¹⁷⁴⁵ Exhibit RC0281 ICR3838 (001), 16 September 2005, 1, VPL.2000.0003.1587; Exhibit RC 0281 ICR3838 (002) 21 September 2005, 7, VPL.2000.0003.1593; Exhibit 0281 ICR3838 (003), 26 September 2005, 13, VPL.2000.0003.1599; Exhibit RC 0281 ICR3838 (004), 1 October 2005, 19, VPL.2000.0003.1605.

¹⁷⁴⁶ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 12, VPL.0005.0051.0002 @.0013.

MS GOBBO: Well, you - I guess you can start.

MR SANDY WHITE: I can say then tell me everything you know about Tony Mokbel.¹⁷⁴⁷

1343. **On the evidence, it is open to the Commissioner to find that:**
- 1343.1. **each of Mr Sandy White, Mr Peter Smith, Mr Rowe and Mr Mansell knew that Ms Gobbo was acting for Mr Tony Mokbel at that time**
 - 1343.2. **each of Mr Sandy White, Mr Peter Smith, Mr Rowe and Mr Mansell well-understood that a barrister could not act in conflict between duties owed to their clients and a role as a human source¹⁷⁴⁸**
 - 1343.3. **each of Mr Sandy White, Mr Peter Smith, Mr Rowe and Mr Mansell should have reported Victoria Police's proposed use of Ms Gobbo as a human source to superior officers other than those who were concerned in or aware of that proposed use, or alternatively to the Director of the OPI¹⁷⁴⁹**
 - 1343.4. **insisted that Victoria Police obtain legal advice as to the proposed use of Ms Gobbo as a human source, or satisfied themselves that such advice had been obtained.**

1344. Throughout the meeting, Ms Gobbo discussed her client, Mr Tony Mokbel, his family and his associates. Ms Gobbo told the police members that Mr Tony Mokbel was seeking to bribe a member of the MDID concerning evidence against him in Operation Quills.¹⁷⁵⁰ She told them that Mr Tony Mokbel wanted to steal tape recordings relating to Operation Kayak.¹⁷⁵¹ There was also discussion about Ms Gobbo [REDACTED] someone who could launder money.¹⁷⁵²

1345. Ms Gobbo told police that Mr Tony Mokbel was panicked about Mr Bickley's arrest, and that he was desperate for information in relation to the matter

¹⁷⁴⁷ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 14-15, VPL.0005.0051.0002 @.0015-.0016.

¹⁷⁴⁸ Whilst this is implicit given their training, roles and seniority, the following evidence is also informative: Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3276, TRN.2019.06.28.01; Transcript of Mr Sandy White, 31 July 2019, 3612-3613, TRN.2019.07.31.01; Mr Peter Smith's evidence amounted to him not understanding what a conflict of interest was (Transcript of Mr Peter Smith, 11 September 2019, 6064, 6156 – 6157, TRN.2019.09.11.01), however he accepted that he understood the issue of conflict of interest when in the witness box, but simply 'I didn't consider it back then' (6157).

¹⁷⁴⁹ See s 86L(2A) of the *Police Regulation Act* in force at the relevant time.

A member of the force must make a complaint to a member of the force of a more senior rank to that member, or to the Director,

¹⁷⁵⁰ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 36, 53, 85, VPL.0005.0051.0002 @.0037, .0054, .0086.

¹⁷⁵¹ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 42, VPL.0005.0051.0002 @.0043.

¹⁷⁵² Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 85, VPL.0005.0051.0002 @.0086.

and for Mr Bickley to do some sort of deal in which he would plead guilty and get it over and done with.¹⁷⁵³

1346. Ms Gobbo also discussed Mr Cooper on numerous occasions in the meeting. Mr Cooper was on bail and awaiting a plea hearing in relation to two charges of trafficking in a large commercial quantities of methamphetamine. She told the police members that she was acting for Mr Cooper at that time.¹⁷⁵⁴
1347. Ms Gobbo also discussed Mr Thomas, whom she said would also have sufficient information to prosecute Mr Tony Mokbel and his associates.¹⁷⁵⁵ Mr Thomas was in custody awaiting trial for murder.
1348. These matters all formed significant parts of Purana plans in the period following. As will be seen, both in the present part of the submission, and in the case studies of Messrs Cooper and Thomas:

- 1348.1. Consideration was seriously given to having an [REDACTED] [REDACTED] to Mr Mokbel as a potentially [REDACTED] [REDACTED] stealing the Operation Kayak recordings.
- 1348.2. The Operation Posse investigation plan was developed which specifically included having both Mr Bickley and Mr Cooper arrested on further serious charges to motivate them to co-operate in relation to other Purana targets.
- 1348.3. When Messrs O'Brien and Bateson later met with Mr Thomas to discuss his future co-operation, Mr O'Brien indicated that the co-operation was expect to include knowledge of drug matters relating to Mr Mokbel and others, not just involvement or knowledge of matters relevant to murders.

Disclosure Issues Immediately Apparent

1349. It is submitted that disclosure complications were immediately apparent and raised in the first meeting between Gobbo and the SDU.
1350. Ms Gobbo raised concerns about the ability of people to access recordings of her meetings with police should anyone be charged in the future. The subsequent discussion included an acknowledgement by Mr Sandy White that informer privilege was not absolute. Concerns were raised by Ms Gobbo that any claim of PII would expose her as an informer. This was an

¹⁷⁵³ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4, VPL.2000.0003.1590.

¹⁷⁵⁴ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 67, VPL.0005.0051.0002 @.0068.

¹⁷⁵⁵ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4, VPL.2000.0003.1590: 'Cooper is very worried, he could have sold all of them out, put everyone in gaol for a long time, but wouldn't do it. Cooper talks about this from time to time, mainly when spoken to by D/Sgt Dale Flynn of MDID. Cooper [REDACTED] continuous pressure from the Mokbel clan to cook amphetamines for them'; Exhibit RC0281 ICR3838 (003), 26 September 2005, 16, VPL.2000.0003.1602: 'Thomas and Cooper would both have sufficient information about Mokbel to put him away for a long time.'

enduring concern of Ms Gobbo's which she continued to express once she became a witness.¹⁷⁵⁶

1351. Related to this, Ms Gobbo spoke about concerns over the current trial of Carl Williams. She said she had represented the main witness against him, Mr McGrath. She told those present that she had strived to 'turn' Mr McGrath to prove a point to Purana Taskforce members who believed she was a 'stooge' for Carl Williams and Tony Mokbel, and that she had meetings with police and involvement in changes made to Mr McGrath's statements prior to their being sworn. Ms Gobbo said those matters were recorded in police diaries, and that when subpoenas had been issued to the Magistrates' Court she had been protected by the Purana Taskforce, but she now had fears that the Supreme Court might order the disclosure of police diary notes revealing her involvement.¹⁷⁵⁷

1352. On the evidence, it is open to the Commissioner to find that the Victoria Police members who were present at the 16 September 2005 meeting with Ms Gobbo would have understood that the involvement of a lawyer in the way described by Ms Gobbo would be relevant and disclosable to the defence.

1353. On the evidence, it is open to the Commissioner to find that Mr Sandy White's awareness of the non-inviolable nature of informer privilege, also makes clear his awareness that a court must be involved in any decision for such material to be withheld from the defence.

19 to 21 September 2005 – SDU/MDID Meetings after Gobbo Assessment

1354. On Monday 19 September 2005, the following events occurred:
- 1354.1. Mr Hill, Mr O'Brien and Mr Mansell of the MDID met with Mr Sandy White and Mr Peter Smith of the SDU. They discussed that those who knew of the intended approach to Ms Gobbo were Mr Flynn and his team, Mr Mansell and his team, Mr Cheeseman and his team, Mr Bateson, and Mr Bullock of the ACC. They agreed that the MDID members would be told that Ms Gobbo had been assessed as no value as a human source.¹⁷⁵⁸ They discussed Ms Gobbo's suggestion of the possibility of an [REDACTED] [REDACTED] to Mr Tony Mokbel in relation to the bribery and money laundering scenarios.¹⁷⁵⁹

¹⁷⁵⁶ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 5-10, VPL.0005.0037.0014 @.0018-.0028.

¹⁷⁵⁷ Exhibit RC0267 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 16 September 2005, 19-24, VPL.0005.0037.0014 @.0032-.0037.

¹⁷⁵⁸ See also See also Exhibit RC0284 SML3838, 19 September 2005, 1, VPL.2000.0001.9447 @.9447.

¹⁷⁵⁹ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 4, VPL.0005.0126.0001 @.0004.

1354.2. Following that meeting, Mr O'Brien attended a meeting with Mr Overland to brief him in relation to Purana issues. Mr O'Brien's notes of that meeting indicate that he shared the information Ms Gobbo had provided concerning a person called Mr Luxmore cooking for Mr Tony Mokbel and the possibility of covert operations in relation to money laundering.¹⁷⁶⁰

1354.3. At midday, Mr Hill attended Mr Purton's office and briefed him on Ms Gobbo's meeting with the SDU. He told Mr Purton he would brief him again later that week.¹⁷⁶¹ Mr Purton's notes of the meeting with Mr Hill record that Ms Gobbo had by that stage agreed to [REDACTED] Mr Tony Mokbel and that [REDACTED] would be a bribe to remove the recordings and money laundering.¹⁷⁶²

1355. On Wednesday 21 September 2005 at 4:50pm, Mr Purton met with Mr White, Mr Rowe, and Ms Burrows to discuss the progress of the use of Ms Gobbo as a human source for Operation Quills.¹⁷⁶³

21 September 2005 – Second Meeting between the SDU and Gobbo

1356. Also on 21 September 2005, at 6:35pm, Ms Gobbo had her second meeting with Mr Sandy White and Mr Peter Smith. Ms Gobbo again told Mr Sandy White and Mr Peter Smith that she was acting for Mr Cooper. She told Mr Sandy White and Mr Peter Smith information she had obtained from Mr Cooper, including that Mr Jeffrey Jamou (her former client) and Mr Sam Younan were 'cooking' manufacturing drugs for Mr Tony Mokbel and that Mr Cooper had taught Mr Jamou how to do the same.¹⁷⁶⁴ Ms Gobbo was tasked to report any change of phone number for Mr Luxmore. Ms Gobbo talked at length regarding her other client, Mr Tony Mokbel, and a large range of other people.

1357. On Thursday 22 September 2005, Mr Hill met with Mr Sandy White to discuss Ms Gobbo's role as a human source in Operation Quills. Mr Sandy White told Mr Hill that he was in the process of debriefing Ms Gobbo.¹⁷⁶⁵

26 September 2005 – Overland Updated on Gobbo Plans

1358. On Monday 26 September 2005 at 2:00pm, a Taskforce Purana weekly progress meeting took place attended by Messrs Overland, Purton, O'Brien and Whitmore. Amongst other matters, they discussed Ms Gobbo's recent registration as a human source, including her registration number '3838'. They discussed information Ms Gobbo had provided concerning Mr Tony Mokbel's activities, together with the fact that Mr Mokbel had asked Ms Gobbo to draft a statement for Mr Bickley to the effect that Mr Mokbel was not involved in Mr Bickley's recent criminal activities.¹⁷⁶⁶ Mr Overland noted

¹⁷⁶⁰ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 19 September 2005, 4, VPL.0005.0126.0001 @.0004.

¹⁷⁶¹ Exhibit RC117 Mr Robert Hill diary, 19 September 2005, 4, VPL.0005.0013.0892 @.0895.

¹⁷⁶² Exhibit RC0109 Mr Terry Purton diary, 19 September 2005, 7, VPL.0005.0067.0005 @.0011.

¹⁷⁶³ Exhibit RC117 Mr Robert Hill diary, 21 September 2005, 6, VPL.0005.0013.0892 @.0897.

¹⁷⁶⁴ Exhibit RC0297 Transcript of conversation between Nicola Gobbo, Sandy White and Peter Smith, 21 September 2005, 78, VPL.0005.0051.0136 @.0213.

¹⁷⁶⁵ Exhibit RC117 Mr Robert Hill diary, 22 September 2005, 7, VPL.0005.0013.0892 @.0898.

¹⁷⁶⁶ Exhibit RC0109 Mr Terry Purton diary, 26 September 2005, 8, VPL.0005.0067.0005 @.0012;

Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 19 September 2005, 4, VPL.0005.0126.0001 @.0004.

in his diary the need to manage Ms Gobbo as a source very carefully, and that Mr Purton was to be fully involved.¹⁷⁶⁷

26 September 2005 – Third Meeting between the SDU and Gobbo

1359. Later, on 26 September 2005, between 6:40pm and 12:12am, Mr Sandy White and Mr Peter Smith met with Ms Gobbo for the third time.¹⁷⁶⁸ Ms Gobbo provided a wide range of information concerning her client, Mr Tony Mokbel and his associates. She described Mr Tony Mokbel's fears of Mr Bickley implicating him and his desire for Mr Bickley to make an exculpatory statement. She provided details of her client Mr Cooper and explained his relationship with Mr Tony Mokbel and Mr Milad Mokbel. She said Mr Tony Mokbel was pressuring Mr Cooper to cook for him. She said that Mr Cooper would likely receive a sentence of 8 to 10 years for the two sets of charges he was facing at that time. She told Messrs Sandy White and Peter Smith that Mr Cooper and Mr Thomas would both have sufficient information about Mr Tony Mokbel to put him away for a long time. She said, *'[Mr Cooper] is a very easy person for me to talk to though'* and told the police about Mr Cooper's willingness to divulge information to her when he was taking large amounts of antidepressants.¹⁷⁶⁹

27 to 30 September 2005 – Developing Plans for the Use of Gobbo as a Human Source

1360. The following day, Tuesday 27 September 2005, at 2:00pm Mr Sandy White and Mr Peter Smith met with Mr Purton, Mr Hill, Mr O'Brien, Mr Rowe and Ms Burrows. They determined to establish a taskforce to pursue the matters disclosed by Ms Gobbo, namely Mr Tony Mokbel offering a bribe, money laundering and Mr Cooper. Mr O'Brien had further discussions with Mr Sandy White about investigation strategies later that day.¹⁷⁷⁰

1361. At 3:45pm, Mr Purton met with Mr Overland and conveyed to him the information supplied by Ms Gobbo as a result of her debriefing by the SDU. This included that Mr Cooper may 'roll over', Mr Mokbel was worried about Mr Bickley and the potential [REDACTED] to Mr Mokbel. They discussed the development of the investigation strategy and the need to ensure that Ms Gobbo was not compromised under any circumstances.¹⁷⁷¹

1362. On 30 September 2005, Mr O'Brien had a discussion with Mr Peter Smith in relation to Ms Gobbo. They then met with Messrs Purton, Hill, Hardie, Flynn, and Ms Burrows to discuss the future investigation. They discussed the focus of the investigation arising from the information provided by Ms Gobbo, investigation strategy and resourcing.¹⁷⁷² Following that meeting,

¹⁷⁶⁷ Exhibit RC0984 Mr Simon Overland diary, 26 September 2005, 511-512, RCMPI.0133.0001.0001 @.0511-.0512

¹⁷⁶⁸ Exhibit RC0297 Transcript meeting between Nicola Gobbo, Sandy White, and Peter Smith, 21 September 2005, VPL.0005.0076.0004.

¹⁷⁶⁹ Exhibit RC0297 Transcript meeting between Nicola Gobbo, Sandy White, and Peter Smith, 21 September 2005, 61, VPL.0005.0076.0004 @.0064.

¹⁷⁷⁰ Exhibit RC0284 SML3838, 27 September 2005, 2, VPL.0005.0099.0001 @.0007; Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 27 September 2005, 5, VPL.0005.0126.0001 @.0005.

¹⁷⁷¹ Exhibit RC0984 Mr Simon Overland diary, 27 September 2005, 513-514, RCMPI.0133.0001.0001 @.0513-.0514.

¹⁷⁷² Exhibit RC0109 Mr Terry Purton diary, 30 September 2005, 9, VPL.0005.0067.0005 @.0013.

Messrs O'Brien, Flynn and Peter Smith had a further discussion in relation to investigative strategies, intelligence and staff election.¹⁷⁷³

1 October 2005 – Fourth Meeting between the SDU and Gobbo

1363. On 1 October 2005 Mr Sandy White and Mr Peter Smith met Ms Gobbo for the fourth time, between 9:40am and 2:45pm.¹⁷⁷⁴ The discussion was wide-ranging, and included:

- 1363.1. that Mr Bateson had indicated to Ms Gobbo that he knew she was dealing with the SDU
- 1363.2. Mr Sandy White said that the SDU did not wish to put Ms Gobbo in a position where she would breach confidentiality, and that Ms Gobbo should herself consider what she did and did not wish to share with the SDU¹⁷⁷⁵
- 1363.3. the progress of her client Mr Tony Mokbel's matters and his concerns generally
- 1363.4. her client Mr Cooper was back in Melbourne, was under pressure from Mr Tony Mokbel and had respect for Mr Flynn who he might be prepared to speak to if he had been drinking alcohol [REDACTED]. Ms Gobbo offered to arrange such a meeting at the Emerald Hotel the following week.

20 to 21 October 2005 – Operation Posse Plan Approved by Overland

1364. As referred to in Chapter 11, throughout October 2005 further meetings occurred and the plans in relation to the use of Ms Gobbo's information developed further. Mr O'Brien was made aware of the April 2005 *Operation Posse: Operational Assessment into the Mokbel Criminal Cartel* document. It was determined that all MDID investigations related to the Mokbel's would be subsumed into Purana Taskforce's Operation Posse. A formal written investigation plan was produced by Mr O'Brien, who consulted with Mr Sandy White.

¹⁷⁷³ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 30 September 2005, 5, VPL.0005.0126.0001 @.0005.

¹⁷⁷⁴ Exhibit RC0282 Transcript meeting between Nicola Gobbo, Sandy White and Peter Smith, 1 October 2005, VPL.0005.0076.0068.

¹⁷⁷⁵ Mr Sandy White: '...you're going to take your own counsel about what's a problem, what's not a problem. And don't feel that would try and question you about those sort of matters. Or if it gets to that point where you don't want to talk about it, well, cool...': Exhibit RC0282 Transcript meeting between Nicola Gobbo, Sandy White and Peter Smith, 1 October 2005, 77, VPL.0005.0076.0068. @.0144. See also at 75-76, @.0142-.0143:

Mr Sandy White: For me too, I suppose, discussed with you 'cause you're acting for Tony in that client matter - - -

Ms Gobbo: Yeah.

Mr Sandy White: - - - where we sort of steer clear of talking to you about that - - -

Ms Gobbo: Yeah.

Mr Sandy White: - - - specifically. And we've never asked you what your own views are about that, but we'll just operate on the assumption that there's an ethical issue for you to talk about - - -

Ms Gobbo: Yeah, there are, yeah.

Mr Sandy White: - - - in your client's case.

Ms Gobbo: Yeah. Well, no, there's ethical issues in terms of talking about someone the instructions - - -

Mr Sandy White: Yeah.

1365. On 21 October 2005, Mr Overland approved the plan prior to his departure overseas for a month.
1366. That investigation plan provided background including that:
- 1366.1. Mokbel was due to face trial on State (Operation Kayak) and Commonwealth (Operation Plutonium) charges relating to events in 2000, in which there had been delays in forensic examinations and police corruption issues allowing Tony Mokbel to remain 'at large' in the interim.
 - 1366.2. In 2003, Mr Cooper had been involved in the manufacture of methamphetamine which were being supplied to Milad and Kabalan Mokbel (Operation Matchless). Mr Cooper had close links to Mr Thomas, who was a close associate of Tony Mokbel.
 - 1366.3. In 2005, Messrs Bickley [REDACTED] had involvement in the manufacture of MDMA tablets, and investigators had established [REDACTED] working for Tony Mokbel (Operation Quills).
 - 1366.4. [REDACTED] had provided information that Tony Mokbel was very concerned about the ramifications of Mr Bickley talking to police.
 - 1366.5. [REDACTED] stated Tony Mokbel was attempting to source a corrupt detective within Victoria Police in an attempt to gain access to tape material from Operations Kayak and Quills.
 - 1366.6. Tony Mokbel was the subject of an AFP 2005 investigation (Operation Orbital) involving an incitement to import drugs into Australia, which appeared weak and was dependent upon Operation Quills for further circumstantial evidence to support the prosecution.
 - 1366.7. Concern that even if convicted, Tony Mokbel would not receive a long enough sentence to prevent him from exerting control and influence on the continuance of the 'Mokbel criminal enterprises' from inside gaol using family members and trusted associates whom he controlled.
 - 1366.8. In the event Tony Mokbel received a custodial sentence the void would likely be filled by his brothers, Horthy, Milad or Kabalan.
1367. The investigation plan also included the following:

Primary Goal

Identification, Investigation and complete dismantling of the Mokbel Family Criminal Organisation.

Investigation Objectives

Utilise the continuing information provided by Registered Human Sources [primarily Ms Gobbo].¹⁷⁷⁶

Seek [REDACTED] to progress drug investigations and attempts to corrupt police members.¹⁷⁷⁷

¹⁷⁷⁶ Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, 3, VPL.0100.0009.0001 @.0003.

¹⁷⁷⁷ Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, 4, VPL.0100.0009.0001 @.0004.

...

Main Investigative Steps

In line with reliable source information attempt to [redacted] relative to the Mokbels. [redacted] [Mr Cooper] by further investigation of current criminal activities of associates and himself.

In line with reliable intelligence attempt [redacted] relative to the Mokbels and associates including Alex Radi. [redacted] Bickley by further investigation of current criminal activities and association with Antonios Mokbel and Alex Radi.¹⁷⁷⁸

28 October 2005 – Awareness of Conflict Issue

1368. On 28 October 2005, in a further conversation with Mr Sandy White, Mr Black and Mr Peter Smith, Ms Gobbo made it clear that it would be legally problematic to continue to act for Mr Cooper while informing on him. Mr Sandy White acknowledged that.¹⁷⁷⁹
1369. Despite this, and with the knowledge of members of Victoria Police, Ms Gobbo continued to act for and inform on Mr Cooper following this time.
1370. Mr Sandy White stated that over the duration of the relationship with Ms Gobbo, she was told on several occasions not to involve herself with potential clients who may represent a conflict of interest to her, however often she would simply ignore that advice. Mr Sandy White's evidence was that it was an ethical matter for her, not for him.¹⁷⁸⁰

30 October 2005 – Monthly Source Review

1371. As referred to in Chapter 3, the Chief Commissioner's Instruction containing the Informer Management Policy required that controllers had specific oversight functions, including to conduct a monthly review of the relationship between the handler and the informer.¹⁷⁸¹
1372. On 30 October 2005, Mr Sandy White completed a Monthly Source Review in relation to Ms Gobbo's handling by the SDU. He rated her risk as high, stated that ongoing debriefing was required, her risk assessment was still pending and management by the DSU was essential.
1373. It was noted that Operation Posse would soon commence investigations in relation to the Mokbel cartel, and that Ms Gobbo was well placed to provide ongoing intelligence.¹⁷⁸²

¹⁷⁷⁸ Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, 4, VPL.0100.0009.0001 @.0004.

¹⁷⁷⁹ An analysis of this conversation is set out in the section of this submission concerning Mr Cooper.

¹⁷⁸⁰ Exhibit RC0275 Statement of Mr Sandy White, 1 August 20019, 45 [189] COM.0019.0004.0001 @.0045.

¹⁷⁸¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 22 March 2019, Annexure 34, 22 September 2003, 4-5 [14], VPL.0002.0001.2196 @.2199 - .2200.

¹⁷⁸² Exhibit RC0284 SML3838, 28 November 2005, 7-8 VPL.0005.0099.0001 @.0007-0008.

15 November 2005 – Risk Assessment

1374. The Informer Management Policy also required the submission to the OIC of a registration application along with an initial assessment of risk and other relevant documents. The Instruction outlined that that this assessment should include information relevant to the:

- Risk to the informer – including history, criminal or otherwise, which may lead to a risk of compromise.
- Risk to information – including content, intended use, subsequent dissemination, relevance.
- Risk to handler(s)/controller – experience and ability of member to fulfil the role, adequate training, personal knowledge relating to the informer.
- Risk to Victoria Police – embarrassment to Victoria Police, loss of credibility, exposure of methodology, cost effectiveness.
- Risk to the public – impact on community, harm to public, confidence issues.¹⁷⁸³

1375. On 15 November 2005, Mr Peter Smith completed a risk assessment as part of the human source registration process requirements.¹⁷⁸⁴

1376. The first category of risk, rated the risk to Ms Gobbo as high, and included that:

- Ms Gobbo was a criminal barrister, extremely well known with the legal fraternity
- Ms Gobbo was acting for several members of the Mokbel criminal cartel including Tony Mokbel
- Ms Gobbo had conversations with other law enforcement members about assisting police, including from Purana and the MDID, which may be known to others
- Ms Gobbo's stated motivation for assisting police was to rid herself of clients who were a drain on her, specifically those belonging to the Mokbel criminal cartel
- Ms Gobbo has connections to numerous barristers and solicitors acting for various crime figures at all levels.

1377. The second category of risk, rated the risk to the integrity of information provided by Ms Gobbo as high, and included that:

- within a short time, Ms Gobbo had already provided credible and valuable intelligence to police, and was well positioned to obtain valuable intelligence in relation to the criminal activities of the Mokbel cartel

¹⁷⁸³ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 36, 20 September 2005, 7 [21], VPL.0002.0001.2232 @.2238.

¹⁷⁸⁴ Exhibit RC0285b Informer Registration, Part C – Risk Assessment, 15, 23 November 2005, VPL.2000.0001.9395.

- Ms Gobbo's potential to provide intelligence on major organised crime figures had not yet been developed to its full potential.
1378. The fourth category of risk rated the risk of exposure of Victoria Police as high, and included:
- that by virtue of Ms Gobbo's occupation and position, if she were compromised, her handling could come under extreme scrutiny which could bring embarrassment and criticism to Victoria Police (it was said this risk must be balanced against the harm to the public that might occur through a lack of intelligence against very large scale drug traffickers).
1379. The fifth category of risk, rated the risk of public harm as moderate, and included:
- whilst Ms Gobbo's appearance of having a moral duty to uphold the law must be constantly scrutinised, it appeared unlikely that Ms Gobbo would be openly involved in activities which would have a negative impact upon her position, and thus the general community.
1380. Each category of risk contained proposed control measures to limit the risk which had been identified and assessed. The Risk Assessment made no call for legal advice:
- as to the appropriateness of using Ms Gobbo against her own clients
 - to advise the police as to the dangers or limits of her use.
1381. On the evidence it is open to conclude that it was a failure on the part of Mr Peter Smith in preparing the Risk Assessment and Mr Black as an acting controller in reviewing the Risk Assessment to fail to identify, or if they did identify, fail to record an additional a risk that the use of Ms Gobbo as a human source to provide information against persons who were previously her clients or were likely to continue to be her clients:
- 1381.1. could be improper or unlawful
- 1381.2. had the potential to interfere with the administration of criminal justice
- 1381.3. should be the subject of legal advice.
1382. On 23 November 2005, Mr Black, who was acting as Ms Gobbo's controller, at the rank of [REDACTED], whilst Mr Sandy White was on leave, completed the 'Overall Assessment' component at the end of the risk assessment. He included:
- Ms Gobbo's overall risk determination was high and the nominated control measures were considered appropriate
 - Ms Gobbo was a criminal barrister and represented many high profile criminal identities
 - One group of her clients was the Mokbel family, who were regarded as one of the major drug trafficking consortiums in Australia

- The effective use of Ms Gobbo had the potential to impede major crime and reduce the illicit drug trade and that failure to use Ms Gobbo would have the opposite effect (it could not be the case that not using Ms Gobbo as a human source would have the effect of increasing the illicit drug trade)
 - The recommendation that the DSU manage Ms Gobbo.
1383. Between 22 and 23 November 2005, the registration documents including the Risk Assessment were delivered to Mr Cowlshaw, the OIC of the SDU. The Policy required Mr Cowlshaw to, amongst other matters:
- assess the suitability of the informer
 - evaluate identified risks
 - consider potential risks
 - consider risk management strategies
 - ensure compliance with policy and procedures
 - consider operational priorities.¹⁷⁸⁵
1384. Given Ms Gobbo was registered, and a file was created in the IMU, it is to be assumed that Mr Cowlshaw attended to these obligations, however there is no evidence as to when and how this was done. Relevant submissions regarding Mr Cowlshaw are made in Chapter 3.
1385. Upon satisfaction that an informer should be registered, the OIC was required to deliver the documents to the Local Informer Registrar, in this case Superintendent Ian Thomas. Mr Thomas was required to consider most of the same matters as Mr Cowlshaw had, prior to approving the registration.
1386. Again, given Ms Gobbo's registration, it is to be assumed this was done, although there is no evidence to indicate how and when this was done.
1387. There is no evidence that anyone raised the need for legal advice to be taken in relation to any aspect of Ms Gobbo's use as a human source.

21 & 22 November 2005 – Purana Taskforce, Phase 2: Operation Posse Kicks Off

1388. On 21 November 2005, Mr O'Brien relocated his office from MDID to the Purana Taskforce where he commenced his tenure as its OIC.¹⁷⁸⁶
1389. The following day he held a briefing in relation to Operation Posse. He prepared a briefing document setting out the broad range of investigations to be undertaken by the Purana Taskforce. Operation Posse essentially

¹⁷⁸⁵ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 36, 20 September 2005, 8 [26], VPL.0002.0001.2232 @.2239.

¹⁷⁸⁶ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 18 [82] VPL.0014.0040.0001 @.0018.

became Phase 2 of the Purana Taskforce, Phase 1 being the homicide investigations.¹⁷⁸⁷

1390. Mr O'Brien noted that 'RHS issues in this operation are so critical that the risk has been assessed as extreme.'¹⁷⁸⁸

28 November 2005 – Monthly Source Review

1391. On 28 November 2005, Mr Sandy White completed a Monthly Source Review in relation to Ms Gobbo's handling by the SDU. He stated that her risk remained high, and that her risk assessment was unchanged.
1392. It was noted that Operation Posse would soon commence investigations in relation to the Mokbel cartel, and that Ms Gobbo was well placed to provide ongoing intelligence.¹⁷⁸⁹

January 2006 – O'Brien Deals with Gobbo as a Lawyer for Cooper

1393. In January 2006, the discussions took place concerning variation of Mr Cooper's bail to allow him to gamble in Queensland. Mr O'Brien dealt with Ms Gobbo as Mr Cooper's lawyer at this time.¹⁷⁹⁰

9 January 2006 – Monthly Source Review

1394. On 9 January 2006, a DSU office meeting took place where discussion was had as to current issues with sources being handled.¹⁷⁹¹ Later that day, Mr Sandy White completed a further Monthly Source Review. He noted her continuing high risk, which was heightened as a result of her acceptance of a [REDACTED] strategy.
1395. He stated that Ms Gobbo was providing productive intelligence which he expected to continue, and that Ms Gobbo had requested a strategy meeting to discuss Mr Cooper.
1396. A number of issues were noted, including Ms Gobbo's attempts to learn methodology under the guise of trust issues, and that she was highly demanding and resource intensive.¹⁷⁹²

14 February 2006 – Monthly Source Review

1397. On 14 February 2006, Mr Sandy White provided a briefing to Mr Moloney relation to Ms Gobbo, but not any other source. During the meeting he was told of the assignment of Inspector Dean McWhirter as the Inspector of the SDU.¹⁷⁹³

¹⁷⁸⁷ Exhibit RC0464 Statement of Mr James (Jim) O'Brien dated 14 June 2019, 18 [83]-[84], VPL.0014.0040.0001 @.0018.

¹⁷⁸⁸ Exhibit RC0464 Statement of Mr James (Jim) O'Brien dated 14 June 2019, 18 [85], VPL.0014.0040.0001 @.0018.

¹⁷⁸⁹ Exhibit RC0284 SML3838, 28 November 2005, 7, VPL.0005.0099.0001 @.0007.

¹⁷⁹⁰ Detail is provided analysis of this conversation is set out in the section of this submission concerning Mr Cooper.

¹⁷⁹¹ Exhibit RC0292 Mr Sandy White diary, 9 January 2006, 70-72, VPL.0100.0096.0001 @.0070-.0072.

¹⁷⁹² Exhibit RC0284 SML3838, 9 January 2006, 11, VPL.0005.0099.0011 @.0011.

¹⁷⁹³ Exhibit RC0292 Mr Sandy White diary, 14 February 2006, 115, VPL.0100.0096.0001 @.0115.

1398. That day, Mr Sandy White completed a Monthly Source Review. The review noted that Ms Gobbo remained a daily source of high-grade intelligence. It was further noted that handling duties were 'intense' and that a third handler (after Mr Peter Smith and Mr Black) would be introduced.
1399. The next day, Mr Green was introduced to Ms Gobbo at a meeting with Mr Peter Smith.¹⁷⁹⁴

February to March 2006 – Gobbo Involvement in Thomas 'Rolling' Discussions

1400. In February 2006, Mr Andrews made a decision to co-operate with the prosecution. Following this time, Ms Gobbo advised the SDU and spoke with Mr Bateson about co-operation by Mr Thomas.
1401. It is submitted that Ms Gobbo was clearly conflicted in that representation, having represented the main witness against him, Mr McGrath. Ms Gobbo had told the SDU in her first meeting with them about this matter, including that her representation of Mr McGrath had involved meeting with members of the Purana Taskforce and changes to his statement which had been concealed from the defence.
1402. Ms Gobbo had dealt with Detective Sergeant Bateson in relation to her representation of Mr McGrath. His relevant conduct is analysed in Chapter 7.

9 March 2006 – Conflict Concerns with Cooper and Karam

1403. It will be recalled that on 9 March 2006, Mr Green (in Mr Sandy White's presence) raised directly with Ms Gobbo the problems with her representing Mr Cooper and Mr Karam upon their arrest.¹⁷⁹⁵
1404. At the time of this conversation, and known to both officers, Ms Gobbo was appearing for Mr Mokbel in a trial before Justice Gillard. During the meeting there was reference to the 'whole purpose' of Ms Gobbo's informing being 'the Mokbels', and discussion of Ms Gobbo trying to limit her attention to Messrs Cooper and Karam, who were linked with the Mokbels, in terms of those from whom she was obtaining intelligence.¹⁷⁹⁶

1405. On the evidence, it is open to the Commissioner to find that Messrs Sandy White and Green were aware of the potential legal consequences of a barrister informing against their own client and in the circumstances should have, but did not take steps to:

- 1405.1. ensure that legal advice was obtained by their unit, or had been obtained by their superior officers in order to make sure that their management of Ms Gobbo as a human source was proper and lawful; or**

¹⁷⁹⁴ Exhibit RC0284 SML3838, 15 February 2006, 15, VPL.0005.0099.0001 @.0015; Exhibit RC0292 Mr Sandy White diary, 14-16 February 2006, 115-119, VPL.0100.0096.0001 @.0115-.0119.

¹⁷⁹⁵ Detail is provided analysis of this conversation is set out in the section of this submission concerning Mr Cooper.

¹⁷⁹⁶ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White and Green, 9 March 2006, 44-45, VPL.0005.0051.1281 @.1324-.1325; Exhibit RC0292 Mr Sandy White diary, 9 March 2006, 150-151, VPL.0100.0096.0001 @.0150-.0151.

1405.2. **prevent Ms Gobbo from continuing to act as lawyer to such individuals.**

20 March 2006 – Mokbel Fails to Appear at Court

1406. During February and March 2006, Ms Gobbo was appearing as junior counsel for Tony Mokbel in a trial in the Supreme Court before Justice Gillard. The trial was being prosecuted by the CDP and arose out of the Operation Plutonium investigation. Although this was a Commonwealth prosecution, it relied upon some evidence gathered by Victoria Police. The trial had been delayed because of allegations and charges of police corruption.
1407. On Friday, 17 March 2006, Justice Gillard indicated that when the jury retired to consider its verdict the following week, Tony Mokbel would be remanded into custody.¹⁷⁹⁷
1408. Ms Gobbo reported this to Mr Peter Smith. She told him that strangely Tony Mokbel had told her at least twice not to ring him over the weekend, that he would call her. Ms Gobbo said she believed he was going to be involved in some unknown criminality. Mr Peter Smith advised Mr O'Brien about these matters who recorded the matter in his diary.¹⁷⁹⁸ Mr O'Brien gave evidence he only appreciated the importance of that diary entry when he was reviewing it for his evidence to the Commission.¹⁷⁹⁹
1409. On Monday, 20 March 2006, Tony Mokbel failed to appear at his trial. That morning Mr Peter Smith advised Mr O'Brien that '3838' had indicated that Tony Mokbel had failed to appear at his trial and was missing. Mr O'Brien immediately convened a meeting of senior Purana Taskforce members and called Mr Overland.¹⁸⁰⁰
1410. On 21 March 2006, Ms Gobbo told Mr Peter Smith that the trial had been adjourned to 23 March 2006.¹⁸⁰¹

25 March 2006 – Overland Involvement when Potential Compromise

1411. On 25 March 2006, Ms Gobbo reported having been told by Mr David Waters, a former member of police, that her telephone was being intercepted by the AFP. After Mr Sandy White spoke with Mr O'Brien, he spoke with Mr Overland who made enquiries with the AFP and determined that Ms Gobbo was not the subject of a telephone intercept.¹⁸⁰² It was considered probable that Ms Gobbo may have been recorded as a result of intercepts on telephones belonging to Mr Karam.¹⁸⁰³

¹⁷⁹⁷ Exhibit RC0281 ICR3838 (023), 17 March 2006, 194, VPL.2000.0003.1780.

¹⁷⁹⁸ Exhibit RC0281 ICR3838 (023), 17 March 2006, 193-194, VPL.2000.0003.1779-1780; RC0933 Mr James (Jim) O'Brien diary, 17 March 2006, 169, VPL.0100.0073.0076_R1S @.0244.

¹⁷⁹⁹ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5641, TRN.2019.09.05.01.

¹⁸⁰⁰ Exhibit RC0281 ICR3838 (023), 20 March 2006, 196-200, VPL.2000.0003.1782-1786; RC0933 Mr James (Jim) O'Brien diary, 19 March 2006, 171, VPL.0100.0073.0076_R1S @.0246

¹⁸⁰¹ Exhibit RC0281 ICR3838, 21 March 2006, 202, VPL.2000.0003.1788.

¹⁸⁰² Exhibit RC0292 Mr Sandy White diary, 25 March 2006, 154-155, VPL.0100.0096.0001 @.0154-.0155.

¹⁸⁰³ Exhibit RC0284 SML3838, 25 March 2006, 22, VPL.0005.0099.0001 @.0022.

1412. On 28 March 2006, Mr Sandy White spoke further with Mr O'Brien about Ms Gobbo. It was agreed that she would be painted as a Purana Taskforce target with the AFP, and that Mr O'Brien would give a 'coaches address' to those at the Purana Taskforce aware of Ms Gobbo's identity about the need for security.¹⁸⁰⁴

27 March 2006 – Monthly Source Review

1413. On 27 March 2006, Mr Richards joined the DSU.¹⁸⁰⁵ Mr Sandy White wrote another Monthly Source Review. The review noted:

- an issue related to Ms Gobbo's passing a phone from Mr Cooper to Mr Bickley
- that Ms Gobbo was getting closer to both targets, Mr Cooper and Mr Karam, and consequentially the quality of intelligence was increasing
- that handling duties were now being shared by Messrs Peter Smith, Black and Green because of the high demands, constant contact and issues to resolve
- Mr Peter Smith was to prepare an updated risk assessment as well as a list of persons who were aware of Ms Gobbo's identity.¹⁸⁰⁶

1414. The issue in relation to the passing of the phone involved Ms Gobbo having been asked by Mr Cooper to pass a mobile phone to Mr Bickley so they could communicate in relation to a pill press machine. On 16 March 2006, when Ms Gobbo was given the phone by Mr Cooper, she called herself on it and obtained the number before providing the telephone to Mr Bickley. She provided the number to the police. Concerns then arose as to the potential for compromise of Ms Gobbo if the telephone number was the subject of an intercept, then would later have to be disclosed in court. The SDU foresaw the possibility that call charge records (CCRs) would reveal that Ms Gobbo had called herself, and thereby be compromised.¹⁸⁰⁷

1415. The issue resolved through discussion between Mr O'Brien and the SDU that if the number was ever the subject of a CCR request, the request would start at 17 March 2006 at the earliest.¹⁸⁰⁸

1416. On the evidence, it is open to the Commissioner to find that the conduct of Victoria Police members in relation to the risk that Ms Gobbo would be compromised by her calling herself on the telephone she provided Mr Bickley demonstrate their forethought as to court disclosure requirements potentially compromising Ms Gobbo and methods to avoid such disclosure.

¹⁸⁰⁴ Exhibit RC0284 SML3838, 28 March 2006, 23, VPL.0005.0099.0001 @.0023.

¹⁸⁰⁵ Exhibit RC0292 Mr Sandy White diary, 27 March 2006, 155-156, VPL.0100.0096.0001 @.0155-.0156.

¹⁸⁰⁶ Exhibit RC0284 SML3838, 27 March 2006, 23, VPL.0005.0099.0001 @.0023.

¹⁸⁰⁷ Exhibit RC0281 ICR3838 (023), 16 March 2006, 193, VPL.2000.0003.1777-.1778.

¹⁸⁰⁸ Exhibit RC0281 ICR3838 (023), 17 March 2006, 193, VPL.2000.0003.1779.

30 March 2006 – Mr Overland’s Knowledge that Ms Gobbo was Informing on Her Clients

1417. Between 2004 and 2008 Mr Overland had oversight of a number of investigations in which officers had dealings with Ms Gobbo. Primarily, these were operations related to Taskforces Purana and Petra.¹⁸⁰⁹
1418. He knew from Ms Gobbo’s commencement as a human source in September 2006 that she was being used to provide information against the Mokbel syndicate of which Tony Mokbel was the head.¹⁸¹⁰
1419. His evidence was that he ‘believed’ and ‘assumed’ that he was aware that Ms Gobbo was acting for Mr Tony Mokbel in late 2005 and early 2006 his Commonwealth drug charges.¹⁸¹¹
1420. His evidence relevant to whether he knew that Ms Gobbo was, or would, inform on her clients was:¹⁸¹²

... I was aware of Ms Gobbo's use as a human source in relation to the investigations into the Mokbel syndicate conducted under Operation Posse. While I did not specifically authorise her role, equally I did not stop it for the reasons I have set out in this statement. I accept responsibility for her use as a human source in these operations, but at the time I believed she was not informing in breach of her professional obligations.

I verbally instructed my investigators that Ms Gobbo could not provide information or be tasked in relation to current clients, or to provide information obtained in a lawyer/client relationship. I clearly recollect having conversations with a number of my investigators, including Gavan Ryan and Jim O'Brien, to that effect. I believed this was a shared understanding.

1421. It was suggested to Mr Overland that he would have known of Ms Gobbo's representation of Mr Mokbel prior to her registration in 2005, given the publicity and notoriety of those issues at the time, particularly when he had been admitted to bail. Mr Overland responded that he did not pay a lot of attention to the media, unless it was directly relevant to the Purana Taskforce.
1422. On 30 March 2006, an article written by John Silvester appeared on the front page of The Age entitled ‘Justice failing, says crimefighter’.¹⁸¹³ The article, featuring a photograph of Mr Overland, referred to calls for reform to the criminal justice system by Mr Overland, stating that it was failing to cope with sophisticated organised crime. Amongst other matters, Mr Overland referred to delays in matters coming to trial, underworld murder victims and

¹⁸⁰⁹ Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 10 [49], COM.0014.0001.0001 @.0010.

¹⁸¹⁰ Transcript of Mr Simon Overland, 16 December 2019, 11315, TRN.2019.12.16.01.

¹⁸¹¹ Transcript of Mr Simon Overland, 16 December 2019, 11315, TRN.2019.12.16.01.

¹⁸¹² Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 21 [113]-[114], COM.0014.0001.0001 @.0021.

¹⁸¹³ Exhibit RC0926 John Silvester, 'Justice failing, says crimefighter', *The Age*, (Melbourne, 30 March 2006), 1-2, RCMP1.0162.0001.0001 @.0001.

suspects being on 'court-approved' bail, and some lawyers having crossed the line and becoming 'silent partners in organised crime syndicates'.

1423. Mr Silvester noted in the article that:

Mr Overland's call for major court and justice reforms comes a day after millionaire drug trafficker Tony Mokbel was convicted in the Supreme Court of cocaine trafficking.

Mokbel, who had been on bail for more than three years, disappeared on Monday last week, days before the jury retired to consider its verdict.

Police have launched a worldwide search for Mokbel, who is now under investigation for allegedly organising murders while on bail.

1424. The article continued over onto the second page, quoting the response of various stakeholders to Mr Overland's calls.

1425. A related article, written by Steve Butcher, also appeared partly on the front page and partly on the second page, entitled 'Mokbel's lawyer faces contempt investigation'.¹⁸¹⁴ The article reported on matters that had occurred in Mr Mokbel's trial before Justice Gillard following his disappearance. Included part of the article on the front page was written:

Last Thursday, Justice Gillard told Mr Heliotis and junior counsel Nicola Gobbo that they had an overriding duty to the court and Mokbel to remain, despite his absence.

1426. The second page featured a photo of Ms Gobbo and Mr Heliotis, said to have been taken during the trial:

¹⁸¹⁴ Exhibit RC0926 Steve Butcher, 'Mokbel lawyer faces contempt investigation', *The Age*, (Melbourne, 30 March 2006), 1-2, RCMP.I.0162.0001.0001 @.0001.



Nicola Gobbo and Con Heliotis, Tony Mokbel's barristers, outside court during the trial. Mokbel will be sentenced today. PICTURE: SIMON O'DWYER

1427. The second page contained a third article, the headline for which referred to the Interpol hunt for Mokbel.¹⁸¹⁵
1428. When it was put to Mr Overland that if Ms Gobbo was not to act for those against whom she was informing, then she could not act for Mr Mokbel because of his concern about conflict of interest, Mr Overland responded that it was 'more complex than that because of the circumstances that existed at the time', referring to the threat to her life and difficulties she would have disengaging herself from the Mokbel syndicate.¹⁸¹⁶ It is submitted that, realising the inconsistency, Mr Overland then suggested that it was his understanding that the information Ms Gobbo was providing related to other members of the Mokbel syndicate and the intention was that it 'was not to go directly to Mokbel at the time but to work around him and take out those around him and build a case against him that way.'¹⁸¹⁷
1429. As above, he had earlier confirmed that he 'believed' and 'assumed' that he was aware that Ms Gobbo was acting for Mr Tony Mokbel in late 2005 and early 2006 his Commonwealth drug charges.¹⁸¹⁸
1430. It is submitted that further into his evidence Mr Overland became less willing to concede such awareness:

MR WINNEKE: But by informing on Mr Mokbel and people within his, certainly people within his cartel and also on him effectively, she's got to walk away from him

¹⁸¹⁵ Exhibit RC0926 Fergus Shiel, 'Call for adjournment as Interpol hunts Mokbel', *The Age*, (Melbourne, 30 March 2006), 2, RCMP1.0162.0001.0002 @.0001.

¹⁸¹⁶ Transcript of Mr Simon Overland, 16 December 2019, 11442, TRN.2019.12.16.01.

¹⁸¹⁷ Transcript of Mr Simon Overland, 16 December 2019, 11442, TRN.2019.12.16.01.

¹⁸¹⁸ Transcript of Mr Simon Overland, 16 December 2019, 11315, TRN.2019.12.16.01.

anyway because she cannot act. You can't have it both ways, Mr Overland?

MR OVERLAND: Well, I don't know that I am trying to have it both ways. I think that's just the situation that we were faced with at the time. My understanding was that she was informing more against those around Mokbel.

MR WINNEKE: Yes?

MR OVERLAND: And it was absolutely with the intention of building a case against him, as I explained, using the drug investigations as a means to put pressure on him around the homicides, and yes, it was messy, absolutely it was.

MR WINNEKE: If what you say is correct and you made it absolutely clear to your investigators that, "If we're going to go down this path she simply cannot continue acting for Mokbel", that's what you say, isn't it?

MR OVERLAND: H'mm.

MR WINNEKE: How is it that she continued to act for Mokbel throughout, and overtly, standing up in court with Mr Heliotis throughout the end of 2005, making arguments about subpoenas and trying to get access to information by way of subpoenas, including [Person 20], trying to find out who he was, do you recall all that?

MR OVERLAND: Not in, not in intricate detail, no.

MR WINNEKE: Then overtly going to court with Mr Heliotis, representing Tony Mokbel throughout January, February, March of 2006. All of this was known to you?

MR OVERLAND: I'm not sure it was.

MR WINNEKE: Do you mean to say, Mr Overland, that you were not aware that Tony Mokbel was going to trial and was being represented by Nicola Gobbo, your human source?

MR OVERLAND: I was aware he was going to trial.

MR WINNEKE: Yes?

MR OVERLAND: As I said, I don't remember exactly when I became aware that she was acting for Mokbel on those Commonwealth charges.

MR WINNEKE: Mr Overland, can I suggest to you that if what you say is correct, that you were so concerned about this, you were so careful to inform your investigators that this could not occur, that is she couldn't continue to act for Mokbel, and it so

obviously then occurred, can I suggest to you that what you're saying to the Commission is simply not correct, it cannot be right?

MR OVERLAND: No, it is correct.

MR WINNEKE: And indeed it beggars belief, Mr Overland, that you could have been giving your investigators those clear and direct instructions and all of this was then permitted to happen throughout early 2006. It is unbelievable, I suggest to you?

MR OVERLAND: Well, no, that's what happened.

MR WINNEKE: Can you offer an explanation as to how these investigators got it so wrong and didn't tell you, given your clear instructions to them when they must have known what Gobbo was doing, how that came about, this breakdown in communication between you and your investigators?

*MR OVERLAND: I don't know, I think you'd have to ask them about that.*¹⁸¹⁹

1431. Later in his evidence, the Silvester article was shown to Mr Overland, at first focusing on the front page portion of article by itself, to the exclusion of the articles around it. Mr Overland said he recalled the article.¹⁸²⁰
1432. He was then shown the full version of the front page of the Age which also included the Butcher article mentioning Ms Gobbo's representation of Mr Tony Mokbel, and the second page with her photograph. It was put to Mr Overland that he would have known on 30 March 2006 that Ms Gobbo had been acting for Mr Tony Mokbel. He responded that he may have, but he was not a great reader of the media.

1433. On the evidence, it is open to the Commissioner to find that between September 2005 and March 2006 Mr Overland was aware that:

1433.1. Ms Gobbo was representing Mr Tony Mokbel

1433.2. while acting for Mr Tony Mokbel, Ms Gobbo was informing on him.

1434. In the event that the Commissioner accepts the foregoing submission, on the evidence, it is open to the Commissioner to find that during his employment at Victoria Police Mr Overland should have, but did not:

1434.1. take steps to ensure that the members of Victoria Police were not obtaining information from Ms Gobbo about people for whom she was acting, or had acted

¹⁸¹⁹ Transcript of Mr Simon Overland, 17 December 2019, 11442-11444, TRN.2019.12.17.01.

¹⁸²⁰ Transcript of Mr Simon Overland, 18 December 2019, 11700, TRN.2019.12.18.01.

1434.2. **raise risks or concerns that this was occurring, or had occurred, with superior, or appropriate other, officers or the Director of the OPI**

1434.3. **take steps to determine whether any person might have been convicted in circumstances in which Ms Gobbo's role as a human source may have affected that person's trial, and if so convey that information to an appropriate authority.**

1435. **In the event that the Commissioner does not accept that Ms Gobbo's representation of Mr Mokbel while informing on him became known to Mr Overland at any time during the relevant period, it is open to the Commissioner to find that Mr Overland should have made inquiries and discovered those matters. That is so because his evidence was that he gave a precise direction that Ms Gobbo could not continue to act for people if she was providing information about them.¹⁸²¹ Given he was legally qualified and, to give this direction, readily identified the serious risks posed to the integrity of the administration of justice, he had an obligation to make inquiries as to whether his direction was being complied with. Mr Overland accepted that as the person with ultimate responsibility for Operation Posse, he should have known.¹⁸²²**

¹⁸²¹ Transcript of Mr Simon Overland, 17 December 2019, 11454, TRN.2019.12.17.01.

¹⁸²² See Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 21 [113], COM.0014.0001.0001 @.0021 (underlining added):

... I was aware of Ms Gobbo's use as a human source in relation to the investigations into the Mokbel syndicate conducted under Operation Posse. While I did not specifically authorise her role, equally I did not stop it for the reasons I have set out in this statement. I accept responsibility for her use as a human source in these operations, but at the time I believed she was not informing in breach of her professional obligations.

Also: Transcript of Mr Simon Overland, 17 December 2019, 11494, TRN.2019.12.17.01:

Mr Winneke: What about your own investigators, did you ask your investigators whether they were aware that Ms Gobbo was representing Mr Cooper?

Mr Overland: No, I didn't. Well I don't think I asked them, I don't believe I asked them.

Mr Winneke: Why wouldn't you ask them, that would be an absolutely obvious question?

Mr Overland: Why would I?

Mr Winneke: Because you say you're concerned and you were shocked and surprised when you heard that a barrister was acting as an informer?

Mr Overland: Correct.

Mr Winneke: And you say that you were concerned about the admissibility of evidence?

Mr Overland: Correct.

Mr Winneke: And the potential for the perversion of the course of justice, were you interested in that?

Mr Winneke: Obviously.

Mr Winneke: And you didn't ask these simple questions I suggest?

Mr Overland: Well because they are highly experienced investigators. I mean Jim O'Brien, the investigators working in Purana, were all highly experienced investigators.

Mr Winneke: Right?

Mr Overland: I assumed, well more than I assumed, I knew them to be competent, I knew them to be highly experienced. I assumed they would be dealing with these issues.

Mr Winneke: Do you accept as a person who was ultimately responsible for this investigation that if you didn't know, you should have known?

Mr Winneke: Yes.

March to April 2006 – Cooper’s Adjudgment Discussions with the DPP

1436. As referred to in Chapter 11, during this period, conversations were taking place between Ms Gobbo and Victoria Police (and internally within Victoria Police) concerning ways for Mr Cooper’s impending court matters to be adjourned to ensure that he was able to be caught ‘red handed’ offending further, to encourage him to ‘roll’.
1437. Relevantly, Mr Overland and Mr O’Brien’s 19 April 2006 conversation with DPP, Mr Paul Coghlan occurred during this period.¹⁸²³
1438. Following this conversation, Mr O’Brien’s diary indicates that preparations for the arrest of Mr Cooper were stepped up.¹⁸²⁴

20 April 2006 – ‘The General Ethics of All of This Is Fucked’

1439. Also set out in the Chapter 11, on the night of 17 April 2006, the clandestine laboratory being used by Mr Cooper was located by Mr Flynn, based on information provided by Ms Gobbo.¹⁸²⁵ Following this, on 19 April 2006, Mr Sandy White, Mr Peter Smith, Mr O’Brien, Mr Flynn and a number of others, met to discuss Mr Cooper arrest and interview strategy.¹⁸²⁶
1440. On 20 April 2006, Ms Gobbo attended a meeting with the SDU where there was discussion of the problems with Ms Gobbo attending to represent Mr Cooper on his arrest, along with conversation in which Ms Gobbo provided advice on how best to encourage Mr Cooper to talk. It was during this conversation that Ms Gobbo indicated her view as to the ethics of what they were doing, as reflected in the heading above, and issues associated with the admissibility of evidence given it might be said that Mr Cooper might not have received impartial advice.¹⁸²⁷
1441. Later in this conversation, Ms Gobbo then contemplated that her own conduct with Mr Cooper could be criminal:

*MS GOBBO: No, the problem because I was being - you know, not that I was being told all sorts of things for years and years and putting them together 'cause I spent far too much time thinking about things than anything else. The problem was being used by people to, you know, manipulate all sorts of systems - or not so much criminal justice system but really being used by people. That's what it - that's part of - that part of it was a guilty conscience I guess but it's not from - not from doing anything illegal myself but from knowing about these and not doing anything about them. **With [Mr Cooper] it's just gone way in one direction because he's now decided that - I mean, I'm almost or probably***

¹⁸²³ See Chapter 11.

¹⁸²⁴ Exhibit RC0933 Mr James (Jim) O’Brien diary, 20-21 April 2006, 126-128, VPL.0100.0073.0076_R1S @.0273-0275.

¹⁸²⁵ Exhibit RC0292 Mr Sandy White diary, 17 April 2006, 26, VPL.0100.0096.0157 @.0204.

¹⁸²⁶ See Chapter 11.

¹⁸²⁷ See Chapter 11.

bordering on conspiring with him where, you know, when I sit down and have these conversations with him and he's telling me about how much he's cooking and how much this and how much that. Why am I the equivalent of an aider and abetter?

MR GREEN: What are you doing to assist?

MS GOBBO: O.K. Forget about assisting but I'm encouraging. I'm inciting him. I'm conspiring with him.

MR SANDY WHITE: You're not inciting him.

MS GOBBO:

MR GREEN: Yeah, you'd have to be - like, if you were a chemical engineer and you're saying, "No, no, don't do that, do it like this and you'll get another kilo out of it" - - -

MR PETER SMITH: I can't see it though. If you're sitting there and he's telling you stuff and

MS GOBBO: Yeah, but I'm not saying that I'm inquiring about it, so how's this going, how's that going. How else am I supposed to get things out of him?

1442. Problems associated with Ms Gobbo's representation of and informing upon Mr Cooper had been foreseen and had been discussed in October 2005. At that time Mr Sandy White had suggested that she might withdraw from his representation 'for the greater good of telling us'. Ms Gobbo had responded that she wouldn't do that, indicating that he was a client that paid. Nevertheless, she continued to act and inform upon him.
1443. Following this conversion days out from his arrest in April 2005, she continued to act and inform upon him.

19 to 23 April 2006 – Purana Involvement in Tasking of Gobbo as Thomas' lawyer

1444. As outlined in Chapter 7, the use of Ms Gobbo by the Purana Taskforce extended to use of her specifically in her capacity as a lawyer. The SDU's provision to Ms Gobbo of transcripts of Mr O'Brien and Mr Bateson's visits to Mr Thomas occurred during this period.
1445. On 22 April 2006, Ms Gobbo conducted professional visits upon both Carl Williams and Mr Thomas.¹⁸²⁸ The following day Ms Gobbo reported to her handler that he wanted the assessment of Mr Lovitt as to his prospects in successfully defending the case, and that Mr Thomas was very depressed and needed a 'push to come on board totally'.¹⁸²⁹

¹⁸²⁸ Exhibit RC0273 Ms Nicola Gobbo court book, 22 April 2006, 15 MIN.0001.0014.0784, .0799-.0800; Exhibit RC1574 Corrections register of prisoners visited by Ms Nicola Gobbo, 22 April 2006, 23, CNS.0001.0003.0037, @.0059.

¹⁸²⁹ Exhibit RC0281 ICR3838 (028), 23 April 2006, 261, VPL.2000.0003.1847.

Operation Posse Pays Off

22 April 2006 – The ‘Rolling’ of Cooper

1446. On 22 April 2020 Mr Cooper and Mr Agrum (a pseudonym) were arrested. Ms Gobbo had provided the information which led to the location of the clandestine laboratory being used by Mr Cooper and Mr Agrum. Ms Gobbo advised both men on the night. Investigators, aware of Ms Gobbo’s role as a human source in the matter, had facilitated contact with her. Additionally, Ms Gobbo sat in a room with Mr Cooper, along with Mr Flynn for over an hour during which he was convinced to co-operate.
1447. A detailed account of the relevant events, and the conduct of Ms Gobbo and members of Victoria Police, is set out in Chapter 11.

Assistance by Cooper in Days Thereafter

1448. Between 23 and 26 April 2006, Mr Cooper provided assistance to police, including participating in [REDACTED], in obtaining incriminating evidence against Messrs Milad Mokbel, Horthy Mokbel, Bickley, Mr Keene, and Zlate Cvetanovski.¹⁸³⁰

25 April 2006 – Arrest of Milad Mokbel and Steve Cvetanovski

1449. In the days following his arrest, Mr Cooper participated in a number of [REDACTED] and transactions. As a result, the Purana Taskforce obtained incriminating evidence against a number of individuals. Ms Gobbo met and spoke with Mr Cooper on numerous occasions during this period of time.
1450. Messrs O’Brien, Flynn and Rowe were all aware Ms Gobbo had provided information as a human source about Milad Mokbel and Zlate ‘Steve’ Cvetanovski, amongst others. Prior to the arrests of Messrs Cooper and Agrum, Mr Rowe had been involved in the preparation of an affidavit for Mr Flynn the application for the search warrant for the clandestine laboratory which outlined information provided by Ms Gobbo.¹⁸³¹ That affidavit outlined various people about whom Ms Gobbo had provided information, including Milad Mokbel and Mr Zlate ‘Steve’ Cvetanovski.¹⁸³²
1451. April 2006, Phase Five of Operation Posse was approved, which involved Mr Cooper participating in a drug transaction with Milad Mokbel. At 5:35pm, Mr Overland was briefed, and at 7:30pm Mr Grant signed off on the Operation Order which dealt with various arrests and search warrants which were to take place the following day. The Command team remained as it was during Phase One.¹⁸³³

¹⁸³⁰ Exhibit RC0464 Statement of Mr James (Jim) O’Brien, 14 June 2019, 35 [179], VPL.0014.0040.0001 @.0035; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10-11 [55]-[56], VPL.0014.0042.0001 @.0010-.0011; Transcript of Inspector Dale Flynn, 1 October 2019, 6881-6882, TRN.2019.10.01.01.

¹⁸³¹ Transcript of Paul Rowe, 13 November 2019, 9186-9188, 9206

¹⁸³² RC0733 Affidavit for a Search Warrant, 21 April 2006, 2, VPL.0005.0035.1204_R2.

¹⁸³³ RC763, Purana Taskforce, Operation Posse, Phase Five, Operation Order, 24 April 2006 VPL.0099.0056.0001.

1452. On 25 April 2006, Mr Cooper, acting under instructions from the Purana Taskforce, attended at Milad Mokbel's home. At 6:30pm, shortly after Mr Cooper had left, Mr Rowe arrested Milad Mokbel. At 7:35pm, after he had been given his caution and rights, Milad Mokbel requested to speak with Ms Gobbo. Mr Rowe facilitated telephone contact with her. Ms Gobbo also spoke to Mr Rowe and requested she be advised when Milad Mokbel was taken back to St Kilda Road police station. Milad Mokbel remained at his home throughout the night whilst a search warrant was executed.¹⁸³⁴
1453. Mr Cooper was 'arrested' for a second time. Mr Graham Evans recorded in his diary that Mr Cooper telephoned Ms Gobbo, 're legal advice' at 7:35pm. He was taken back to St Kilda Road Police Station and was later joined there by Mr Agrum.¹⁸³⁵
1454. At 11:25pm, Ms Gobbo attended at the police station to see Mr Cooper. She was told to wait outside for the 'all clear' before entering and was eventually escorted in by Mr Graham Evans.¹⁸³⁶
1455. At 1:05am Milad Mokbel was being lodged in an interview room at the police station.¹⁸³⁷ By this time, Mr Cvetanovski had also been arrested. He also requested legal advice from Ms Gobbo.
1456. At around the same time, Ms Gobbo spoke with Mr Sandy White and Mr Green in the interview room on the 16th floor at the police station. Amongst the matters discussed was the legal advice Ms Gobbo should provide Milad Mokbel and Mr Cvetanovski.¹⁸³⁸ Mr Sandy White recorded in his diary:¹⁸³⁹

*Plan – S/T Cventanovski – advice as necessary
– S/T Milad – advice re conflict. Rep Mr Cooper*

1457. At about 2:00am, Mr Flynn and Mr Rowe spoke with Ms Gobbo in relation to Milad Mokbel and Mr Cvetanovski.¹⁸⁴⁰ Then at 2:10am, Mr Flynn and Mr Rowe spoke with Mr Sandy White and Mr Green to discuss the interview plan for Milad Mokbel. They determined they would not put the details of the allegation to him, and that he had already indicated he would make a 'no comment' record of interview.¹⁸⁴¹
1458. Mr Rowe's evidence to the Commission was that he understood Ms Gobbo had been told by the SDU that she could not represent Milad Mokbel and would tell him she could not act due to a conflict of interest.¹⁸⁴²

¹⁸³⁴ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 25-26 April 2006, 3-4, RCMP1.0065.0001.0001, .0003-.0004.

¹⁸³⁵ Exhibit RC1210D Statement of Mr Graham Evans, 6 October 2019, 6 [30], VPL.0014.0072.0004 @.0009.

¹⁸³⁶ Exhibit RC0281 ICR3838 (029), 25 April 2006, 269-270, VPL.2000.0003.1855-1856.

¹⁸³⁷ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 25-26 April 2006, 3-4 RCMP1.0065.0001.0001, .0003-.0004

¹⁸³⁸ Exhibit RC0281 ICR3838 (029), 25 April 2006, 270, VPL.2000.0003.1856.

¹⁸³⁹ Exhibit RC0292 Mr Sandy White diary, 26 April 2006, 45, VPL.0100.0096.0157; Exhibit RC0567 Mr Green diary, 26 April 2006, 129, RCMP1.0086.0001.0001 @0129.

¹⁸⁴⁰ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 26 April 2006, 4, RCMP1.0065.0001.0001, .0004; Exhibit RC0560 Inspector Dale Flynn diary, 26 April 2006, 99, RCMP1.0053.0001.0001 @.0099.

¹⁸⁴¹ RC1381 Detective Sergeant Paul Rowe diary, 26 April 2006, 4, RCMP1.0065.0001.0001, .0004;

Exhibit RC0292 Mr Sandy White diary, 26 April 2006, 45, VPL.0100.0096.0157 @.0201.

¹⁸⁴² Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 12 [89], VPL.0014.0035.0028, @.0039.

1459. At 2:30am, Mr Flynn took Ms Gobbo to the 8th floor to speak with Mr Cvetanovski, with whom she spoke for around 10 minutes.¹⁸⁴³ Then at 2:50am, he took Ms Gobbo to the 12th floor, where she spoke with Milad Mokbel for around 20 minutes.¹⁸⁴⁴
1460. Ms Gobbo did not simply explain to Milad Mokbel that she could not act for him. Immediately after leaving the interview room she spoke with Mr Flynn, telling him that Milad Mokbel wanted to plead guilty to the offence of trafficking in a large commercial quantity of a drug of dependence. Likewise, at 4:05am, Milad Mokbel requested to speak with Mr Flynn and Mr Rowe. He told them he did not want a long, drawn out trial and asked about the likely penalty he would receive for a plea of guilty. He was advised that no agreement could be reached by them, and that his barrister would have to discuss the matter with the OPP. This conversation was recorded by Mr Rowe but was unable to be located to be produced to the Commission.¹⁸⁴⁵
1461. It is to be noted that from the time of Mr Cooper's arrest, Ms Gobbo had expressed concern about Milad Mokbel finding out she had known about Mr Cooper's arrest and had not warned him. If he were to plead guilty, this would avoid the risk of him discovering her earlier involvement with Mr Cooper.
1462. In the next few hours, both Mr Cvetanovski and Milad Mokbel gave 'no comment' records of interview.¹⁸⁴⁶ Mr Cvetanovski was released pending enquiries and was later charged.¹⁸⁴⁷ Milad Mokbel was charged and remanded into custody.
1463. Mr Cvetanovski was released from custody. In the period that followed Ms Gobbo provided him with legal advice, whilst she informed upon him. In the period thereafter she also was encouraging of Mr Cooper to co-operate with police by providing statements against associates he was protecting, including Mr Cvetanovski. These matters are dealt with further in the Case Study of Mr Cvetanovski in Volume 3, and in submissions as to his 2011 trial in Chapter 20.

26 April 2006 – Gobbo Appears for Cooper and Agrum

1464. On the afternoon of 26 April 2006, Ms Gobbo appeared in the Magistrates' Court on behalf of Mr Cooper and Mr Agrum at their filing hearings. Both were remanded in custody.¹⁸⁴⁸

¹⁸⁴³ Exhibit RC0560 Inspector Dale Flynn diary, 26 April 2006, 99, RCMP1.0053.0001.0001 @.0099.

¹⁸⁴⁴ Exhibit RC0560 Inspector Dale Flynn diary, 26 April 2006, 99, RCMP1.0053.0001.0001 @.0099.

¹⁸⁴⁵ Exhibit RC0560 Inspector Dale Flynn diary, 26 April 2006, 99-100, RCMP1.0053.0001.0001 @.0099-.0100; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 26 April 2006, 4, RCMP1.0065.0001.0001, @.0004; Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 12 [90], VPL.0014.0035.0028, @.0039.

¹⁸⁴⁶ Exhibit RC0560 Inspector Dale Flynn diary, 26 April 2006, 100, RCMP1.0053.0001.0001 @.0100; RC1381 Detective Sergeant Paul Rowe diary, 26 April 2006, 4, RCMP1.0065.0001.0001, @.0004.

¹⁸⁴⁷ Exhibit RC0726 Statement of Detective Sergeant Craig Hayes, 25 July 2019, 6 [38], VPL.0014.0044.0001_R2 @.0006.

¹⁸⁴⁸ RC0273 Ms Nicola Gobbo court book, 26 April 2006, 20, MIN.0001.0014.0784, @.0803; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 26 April 2006, 5, RCMP1.0065.0001.0001, @.0005.

1465. Mr Cooper and Mr Agrum were never informed by Ms Gobbo, the police informant in their cases, Mr Rowe, nor any other member of Victoria Police, that the evidence being used against them might have been compromised.
1466. Ms Gobbo continued to act for Mr Agrum following this time and appeared as counsel at his plea hearing in 2007, where he was sentenced to a total effect sentence of four years' imprisonment, with a non-parole period of two years and six months.¹⁸⁴⁹
1467. Ms Gobbo continued to advise Mr Cooper in the years following, although she did not appear for him on his plea. He was sentenced to a total effective sentence of 10 years' imprisonment, with a non-parole period of seven years' imprisonment.¹⁸⁵⁰ This took into account a substantial discount in relation to his co-operation, which resulted in a permanent threat upon his life. It is noted that Mr Cooper had anticipated prior to his arrest on 22 April 2006 he would have received a sentence of between eight and ten years imprisonment, which would have come without the threat upon his life.
1468. Mr Cooper went on to provide over 40 statements to police and give evidence in numerous trials in relation to various other targets of the Purana Taskforce. As is submitted, as a result of the way in which the police gathered evidence, both directly from information provided by Ms Gobbo, and indirectly by obtaining Mr Cooper's co-operation through the orchestrated subversion of his rights, many cases may have been affected.

Events following the Arrest of Mr Cooper

Summary

1469. After Mr Cooper was arrested on 22 April 2006, the level of awareness and knowledge of Ms Gobbo's role as a human source increased within the ranks of Victoria Police. During this period, the risks in continuing to use intelligence provided by Ms Gobbo were being assessed and discussed.

1470. **As is revealed in the matter raised below, on the evidence it is open to the Commissioner to find that although risks were identified, they were not dealt with appropriately. In this regard, it is submitted that the evidence indicates that despite the obvious ethical implications and implications for the proper administration of justice involved, the value of the information being provided by Ms Gobbo was so high that members of Victoria Police continued to accept information and task Ms Gobbo.**

¹⁸⁴⁹ Exhibit RC1865 Reasons for Sentence, *The Queen v Mr Agrum* [2009] VCC, RCMP1.0042.0002.0003 @ 0009; Sentence record/gaol calendar: RCMP1.0042.0002.0004; Exhibit RC1803 Victoria Police Criminal History Report, Mr Agrum, 13 December 2019, VPL.0099.0193.0038.

¹⁸⁵⁰ See Reasons for sentence [43], RCMP1.0042.0004.0003 @.0011.

The Biggin Reward Application

Lead Foot

1471. On 23 January 2006, Ms Gobbo reported to the SDU having been booked for speeding in Carlton the previous night when she was with Mr Ketch (a pseudonym).¹⁸⁵¹ On 31 January 2006, the SDU asked Ms Gobbo about this speeding ticket and she indicated she would probably pay it.¹⁸⁵²
1472. On 3 February 2006, Ms Gobbo was detected speeding in the north-western suburbs of Melbourne at 7:06pm (75km/h in a 60km/h speed zone) and 7:18pm (68km/h in a 60km/h speed zone). Two infringement notices were issued on 17 February 2006, notifying Ms Gobbo about the incursion of a total of four demerit points and demanding payment of penalties totalling \$341 by 17 March 2006.¹⁸⁵³

March 2006 – SDU Assistance regarding Speeding Fines

1473. On 1 March 2006, Mr Sandy White telephoned Mr Geoff McLean in the HSMU 're 3838 fines'. He was advised there was a protocol in place with the traffic camera office to have fines withdrawn and demerit points cancelled. This required a request for a reward to the Reward Payments Committee, following which the Assistant Commissioner of Traffic would be advised once approved, which would involve telling him the identity of the human source. He advised that the penalties payment department would not be told about 'IMU interest', simply that the fines would be withdrawn. Mr Sandy White advised he would submit a reward application.¹⁸⁵⁴
1474. On 17 March 2006, Mr Peter Smith spoke to Ms Gobbo about the fines, indicating that the SDU could pay them. Ms Gobbo said she had been told that Mr Sandy White would look after them. She was advised that they were not sure if that could occur as it would cause exposure of her. Ms Gobbo said she wanted to wait until Mr Sandy White found out whether it could be fixed. She reported her main concern being the large number of demerit points she had accrued lately, and she was on the verge of having her licence suspended.¹⁸⁵⁵ Following this Ms Gobbo applied for and was granted an extension in relation to paying the fine.¹⁸⁵⁶

28 March 2006 – Preparation of Reward Application

1475. On 28 March 2006, members of the SDU prepared a reward application for Ms Gobbo to have two speeding infringements withdrawn ('Reward Application').¹⁸⁵⁷ In particular, the Reward Application was prepared and signed by:

¹⁸⁵¹ Exhibit RC0281 ICR3838 (016), 23 January 2006, 129, VPL.2000.0003.1715.

¹⁸⁵² Exhibit RC0281 ICR3838 (017), 31 January 2006, 138, VPL.2000.0003.1724.

¹⁸⁵³ Exhibit RC0343 Request for Informer Reward, Infringement Notices, 3 February 2006, 6-7 VPL.2000.0003.8304 @.8309-.8310.

¹⁸⁵⁴ Exhibit RC0292 Mr Sandy White diary, 1 March 2006, 142, VPL.0100.0096.0001 @.0142; Exhibit RC0284 SML3838, 1 March 2006, 17 VPL.0005.0099.0001 @.0017.

¹⁸⁵⁵ Exhibit RC0281 ICR3838 (023), 17 March 2006, 194, VPL.2000.0003.1780.

¹⁸⁵⁶ Exhibit RC0281 ICR3838 (028), 19 April 2006, 253, VPL.2000.0003.1839.

¹⁸⁵⁷ Exhibit RC0343 Request for Informer Reward, signed 28 March 2006, 11 April 2006, 1-5, VPL.2000.0003.8304 @.8304-.8308.

- Mr Peter Smith (handler)
 - Mr Sandy White (controller)
 - Mr McWhirter (OIC).¹⁸⁵⁸
1476. On 4 April 2006, Mr Sandy White spoke again with Mr McLean at the HSMU as to the protocol for having speed camera fines cancelled via the Human Source Payments Committee. Mr McLean told Mr Sandy White again that the Assistant Commissioner of Traffic would be advised if the Human Source Payments Committee approved the reward, who would issue a direction to withdraw the penalty and demerit points. They agreed the Assistant Commissioner of Traffic needed to be briefed about the need for additional security in this matter.¹⁸⁵⁹ The Assistant Commissioner for Traffic & Transport at the time was Mr Noel Ashby.¹⁸⁶⁰
1477. On 11 April 2006, Mr Sandy White hand delivered the Reward Application to Mr Porter. He also delivered other documents including a second reward application relating to another human source.¹⁸⁶¹ Mr Porter then signed the Reward Application as the LIR.¹⁸⁶²
1478. The documentation was then forwarded to the HSMU prior to being provided to the Human Source Payment Committee.
1479. On 19 April 2006, Ms Gobbo asked her handler about the progress of matters in relation to her speeding fines, noting the extension she had received expired on 22 April 2006. She was advised that it was 'under control'.¹⁸⁶³

25 April 2006 – Sandy White Concern about Blayney on Reward Committee

1480. On 25 April 2006, Mr Sandy White spoke with Detective Sergeant Paul Walshe at the HSMU in relation to an anticipated sitting of the Human Source Payment Committee on Friday, 29 April 2006. He was told that the sitting time of the committee had changed to the following day and that the two applications previously submitted would be discussed. Mr Sandy White's diary indicates that he was told that the Reward Applications had been delivered the previous Friday, 22 April 2006 to those who would constitute the committee, being Mr Overland, Mr Moloney and Mr Blayney. He queried why Mr Blayney had been included, as he had made arrangements via Mr Porter and discussed with Mr McLean there being a two person committee of Mr Overland and Mr Moloney.¹⁸⁶⁴
1481. It is submitted that this indicates an awareness by Mr Sandy White that the information contained in the Reward Application would not come as any

¹⁸⁵⁸ Exhibit RC0343 Request for Informer Reward, signed 28 March 2006, 11 April 2006, 2, VPL.2000.0003.8304 @.8305.

¹⁸⁵⁹ Exhibit RC0292 Mr Sandy White diary, 4 April 2006, 10, VPL.0100.0096.0157 @.0166; Exhibit RC0284 SML3838, 4 April 2006, 25 VPL.0005.0099.0001 @.0025.

¹⁸⁶⁰ Exhibit RC0921C Victoria Police Organisational Chart, 2005-2006, VPL.0002.0001.0070 @.0004.

¹⁸⁶¹ Exhibit RC0292 Mr Sandy White diary, 11 April 2006, 19, VPL.0100.0096.0157; Exhibit RC0284 SML3838, 11 April 2006, 26, VPL.0005.0099.0001 @.0026.

¹⁸⁶² Exhibit RC0343 Request for Informer Reward, signed 28 March 2006, 11 April 2006, 2, VPL.2000.0003.8304 @.8305.

¹⁸⁶³ Exhibit RC0281 ICR3838 (028), 19 April 2006, 253, 256 VPL.2000.0003.1839, .1842; Exhibit RC0284 SML3838, 19 April 2006, 27, VPL.0005.0099.0001 @.0027.

¹⁸⁶⁴ Exhibit RC0292 Mr Sandy White diary, 25 April 2006, 44, VPL.0100.0096.0157 @.0200.

surprise to Mr Overland and Mr Moloney, to be contrasted with concern about Mr Blayney.

1482. In relation to Mr Moloney, the evidence indicates significant awareness of the relationship between Ms Gobbo and Victoria Police prior to this time:

- on 4 October 2005, Mr Sandy White recorded in his diary providing Mr Moloney with a 'full briefing' in relation to Ms Gobbo.¹⁸⁶⁵ By this time, Ms Gobbo had participated in four lengthy meetings with the SDU
- on 5 October 2005, tactical options about using Ms Gobbo and her information were discussed during the day. Mr Moloney was present at least at a high level meeting with Mr Purton (Crime Department), Mr Biggin and Mr Thomas (I&CS) in relation to Ms Gobbo, and was updated by Mr Sandy White later in the day. Mr Moloney advised that they would have to notify the ESD if they proposed [REDACTED] Mr Mokbel¹⁸⁶⁶
- on 22 October 2005, Mr Moloney met with ESD Superintendents Wilson and Taylor and provided them with three information reports containing information which he noted in his diary had been supplied by 3838. They agreed protocols for the handover of protected documents, Superintendent to Superintendent.¹⁸⁶⁷ The relevant Superintendent sitting over the SDU at the time was Mr Cowlshaw. Consistent with this, it is apparent that Mr Cowlshaw was involved in handing over further information reports relating to allegations of corruption by police on 23 December 2005¹⁸⁶⁸
- on 14 February 2006, Mr Moloney attended at the SDU premises, during which Mr Sandy White provided him with a briefing about '3838'. The Monthly Source Review completed by Mr Sandy White that day had stated that 'Source remains high risk. Intended [REDACTED] creates additional risk factor of potential for compromise of source. Strategy to be discussed with [REDACTED] prior to acceptance of proposal. Source remains a daily source of high grade intelligence. Handling duties are intense and a third handler will be introduced to same to minimise risk. DSU management to continue.'¹⁸⁶⁹
- from 17 April 2006, when the clandestine laboratory was located, various units under the Command of Mr Moloney including the SDU, the TSU and the SSU were being used in Operation Posse
- around 19 April 2006, shortly after the location of the clandestine laboratory had been discovered, a time at which it would have been anticipated that arrests in Operation Posse would be made, Mr

¹⁸⁶⁵ Exhibit RC0292 Mr Sandy White diary, 4 October 2005, 4-5, VPL.2000.0001.0440 @.0443-0444; Exhibit RC1327 Mr Danye Moloney diary 4 October 2005, 295, VPL.0005.0169.0001 @ 0026.

¹⁸⁶⁶ Exhibit RC0292 Mr Sandy White diary, 5 October 2005, 6-7, VPL.2000.0001.0440 @.0445-0446; Exhibit RC1327 Mr Danye Moloney diary 4 October 2005, 295, VPL.0005.0169.0001 @ 0026; Exhibit RC0109 Terry Purton diary, VPL.0005.0067.0005.

¹⁸⁶⁷ Exhibit RC1325 Statement of Mr Danye Moloney, 28 November 2019, 10 [61] VPL.0014.0070.0025_R1 @0.0034; Exhibit RC1327 Mr Danye Moloney diary 22 October 2005, 302, VPL.0005.0169.0001 @.0030.

¹⁸⁶⁸ Exhibit RC0284 SML3838, 9 and 14 November 2005, 6, 7, VPL.0005.0099.0001 @.0006, .0007.

¹⁸⁶⁹ Exhibit RC1325 Statement of Mr Danye Moloney, 28 November 2019, 10-11 [64], VPL.0014.0070.0025_R1 @0.0034-.0035.

Moloney directed Mr Biggin to conduct a 'broad overview audit' on Ms Gobbo's human source file, which involved Mr Biggin providing a view as to whether Victoria Police should continue their relationship with Ms Gobbo

- between 24 and 26 April 2006, Mr Biggin was involved in and receiving briefings on Operation Posse and was in turn briefing Mr Moloney.¹⁸⁷⁰

1483. Mr Blayney gave evidence that the Human Source Payment Committee was usually chaired by the Commander of I&CS, who in 2006 was Mr Moloney. He was supported by the HSMU in the development of documentation supporting the claims. Mr Moloney was the only permanent member of the committee and he would issue invitations to senior officers across the organisation to sit on the committee, who were not permanent members.¹⁸⁷¹

1484. Mr Overland and Mr Moloney told the Commission that Mr Sandy White's query may reflect a concern over making another person aware of Ms Gobbo's identity as a human source.¹⁸⁷² At that time, Mr Overland and Mr Moloney were aware of Ms Gobbo's status, but Mr Blayney was not.¹⁸⁷³ In his evidence before the Commission, Mr Blayney stated that he did not think he was aware that Ms Gobbo was a human source at that point in time.¹⁸⁷⁴

26 April 2006 – Human Source Payment Committee Meeting

1485. On 26 April 2006, the Human Source Payment Committee sat between 1:00pm and 2:00pm.¹⁸⁷⁵

1486. Mr Blayney said the meetings were usually formal. The Committee had the supporting evidence, and the representative of the HSMU or whomever else was addressing the reward applications would present their case and answer any questions as to the merits of the claim.¹⁸⁷⁶ It does not appear that Mr Sandy White was called upon to attend.¹⁸⁷⁷

1487. The first page of the Reward Application contained the details and signatures of the handler, controller, office in charge and local informer registrar responsible for completing and approving submission of the application.

1488. The second and third pages of the Reward Application contained details supporting the application, which had been written as of 28 March 2006, prior to the Operation Posse arrests. These details included:

- a 'detailed summary' of the assistance provided by the source which read:

¹⁸⁷⁰ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 24-26 April 2006, 14-18, VPL.0005.0155.0005, @.0018-.0022.

¹⁸⁷¹ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10213-10214, TRN.2019.12.03.01.

¹⁸⁷² Transcript of Mr Simon Overland, 17 December 2019, 11519, TRN.2019.12.17.01; Transcript of Mr Dannye Moloney, 20 February 2020, 14578, TRN.2020.02.20.01.

¹⁸⁷³ Transcript of Mr Dannye Moloney, 20 February 2020, 14578 [21]-[29], TRN.2020.02.20.01.

¹⁸⁷⁴ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10217, TRN.2019.12.03.01.

¹⁸⁷⁵ Exhibit RC1327 Mr Dannye Moloney diary, 26 April 2006, 62.

¹⁸⁷⁶ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10221-10222, TRN.2019.12.03.01.

¹⁸⁷⁷ Exhibit RC0292 Mr Sandy White diary, 26 April 2006, 46, VPL.0100.0096.0157.

This Human Source is providing extremely sensitive information on a number of very high level drug manufacturers and traffickers, and has been doing so for several months. This large volume of information has been found to be exceptionally accurate and timely, and is being disseminated to Operation PURANA for current operations. It is expected that the Source will continue to provide vital intelligence in the foreseeable future.

To date the information generated by the source has resulted in the compilation of over 107 Information Reports. The dissemination of these IRs has included numerous to Purana Task Force, ESD, MDID, and OCS.

Due to the status of this source she is seen as extremely valuable and is committed to assisting Police which is occurring on a daily basis.

- that the source had given assistance in relation to the offence of trafficking a commercial quantity of Amphetamines
- the operation was ongoing and not had resulted in charges
- without the assistance of the source, certain investigative arms of the Purana Taskforce would not be supported with relevant intelligence
- the source was placing their personal safety at extreme risk in supplying the information
- the quality of the information supplied by the source was consistently corroborated and been found to be of high quality
- at the time of the alleged traffic infringements, the source was acting directly upon instructions of handlers to meet with and ascertain movements of primary targets of the Purana Taskforce, and relevant intelligence had been obtained on the day
- the source was likely to have their driving licence suspended, or close to suspended, if the fine was processed, which would impact upon future tasking and results from the source.

1489. The fourth page of the Reward Application contained information inserted by the HSMU which included the name, date of birth and address of Ms Gobbo, and the HSMU recommendation in respect of the application that 'Withdrawal of the penalty notices as requested is appropriate'.

1490. The fifth and final page of the Reward Application contained the result from the Human Source Payment Committee. This indicated approval of the withdrawal of the penalty notices as requested and was signed by Messrs Overland, Moloney and Blayney.

1491. When asked about this matter, Mr Overland said he had no recollection of it.¹⁸⁷⁸

1492. Mr Moloney told the Commission that he recalled the matter because of the unusual nature of the reward, but that he had no recollection of reading the documents in the Reward Application.¹⁸⁷⁹ It was put to Mr Moloney that he

¹⁸⁷⁸ Transcript of Mr Simon Overland, 17 December 2019, 11521-11522, TRN.2019.12.17.01.

¹⁸⁷⁹ Exhibit RC1325 Statement of Mr Danye Moloney, 28 November 2019, 11 [69], VPL.0014.0070.0025_R1 @.0035; Transcript of Mr Danye Moloney, 20 February 2020, 14577, TRN.2020.02.20.01.

would have read that part of the Reward Application which summarised the assistance of Ms Gobbo. He said he believed he would have relied upon a verbal briefing of that information, although the documents would have been available to him at the meeting.¹⁸⁸⁰

1493. When Mr Blayney was asked whether an unredacted version of the Reward Application was put before him, including Ms Gobbo's name he stated that 'it was contrary to practice, that's all I can say, I can't recall the meeting specifically'.¹⁸⁸¹ He also noted that even if he previously had a conversation about Ms Gobbo in 1996 (relating to Operation Scion, in which he had described Ms Gobbo, who was a registered human source, as a 'loose cannon' who was making arrangements without liaising with police), he did not believe he would have recalled her later in 2006.¹⁸⁸²
1494. Mr Moloney told the Commission that if Ms Gobbo's name did appear in the application, indicating that he would read such material, he would have taken steps to ensure that did not happen again.¹⁸⁸³
1495. As it turned out, Mr Overland took those steps. An analyst at the HSMU, when later inputting this information into Victoria Police's Interpose database, noted approval of the reward application that two penalty notices be withdrawn and included a further comment from Mr Overland which must have been apparent on the document to which she was referring. Mr Overland had indicated that when a highly sensitive source reward request was to be presented to the Human Source Payment Committee, the name of the source should be left off the reward application, and only issued by the HSMU on a single document to the Committee if required.¹⁸⁸⁴
1496. On 27 April 2006, Ms Gobbo was advised by her handler of the withdrawal of the speeding fines, and that this would not be able to occur again.¹⁸⁸⁵
1497. On 11 May 2006, Mr Walshe of the HSMU wrote to Assistant Commissioner Traffic & Transport, Mr Ashby, advising that on 26 April 2006 the Human Source Payment Committee, chaired by Mr Overland and including Mr Moloney and Mr Blayney, had determined a number of requests for rewards, including in relation to 'registered human source 21803838', for the withdrawal of two penalty notices. Attached was the fifth page of the Reward Application indicating the approval of the reward by the Committee, and copies of the two infringement notices with Ms Gobbo's details redacted.¹⁸⁸⁶

¹⁸⁸⁰ Transcript of Mr Dannye Moloney, 20 February 2020, 14578-14579, TRN.2020.02.20.01.

¹⁸⁸¹ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10217-18, 10224, TRN.2019.12.03.01.

¹⁸⁸² Transcript of Mr John (Jack) Blayney, 3 December 2019, 10217, TRN.2019.12.03.01.

¹⁸⁸³ Exhibit RC1325 Statement of Mr Dannye Moloney, 28 November 2019, 11 [69], VPL.0014.0070.0025_R1 @.0035; Transcript of Mr Dannye Moloney, 20 February 2020, 14577, TRN.2020.02.20.01.

¹⁸⁸⁴ Exhibit RC0824 Interpose version of Request for Informer Reward, 28 March 2006, VPL2000.0002.0892.

¹⁸⁸⁵ Exhibit RC0281 ICR3838 (030), 27 April 2006, 274, VPL.2000.0003.1860; Exhibit RC0284 SML3838, 27 April 2006, 29, VPL.0005.0099.0001 @.0029.

¹⁸⁸⁶ Exhibit RC0818 Letter from Mr Paul Walshe to Mr Noel Ashby, 11 May 2006, 81-84, VPL.0100.0120.0001 @.0081-.0084.

1498. On 12 May 2006, Mr Ashby signed the letter noting 'Approved as briefed on 12/5/06 at 12:10pm'.¹⁸⁸⁷
1499. On 26 May 2006, Ms Gobbo reported to the SDU her belief that she had been detected speeding by a speed camera. She was told to slow down.¹⁸⁸⁸

The Biggin Audit

Background

1500. On about 19 April 2006, Mr Biggin had been directed by Mr Moloney to undertake an audit of Ms Gobbo's human source file.¹⁸⁸⁹
1501. Superintendent Anthony Biggin was someone with significant knowledge and understanding of human source management within Victoria Police. He had been the Superintendent in charge of the MDID between January 2002 and August 2005 when he transferred to the Covert Support Division (CSD) of the I&CS. The CSD had within it four units, which provided services to various investigations, including undercover operatives, and physical and electronic surveillance.¹⁸⁹⁰
1502. In mid-2003, at the direction of Mr Overland, Mr Biggin had initiated a project to 'Review and Develop Best Practice Human Source Management Policy', for which he sat on the Steering Committee with Assistant Commissioner Simon Overland, and Commanders Terry Purton (Crime) and Dannye Moloney (I&CS). Mr Biggin also had the role of Project Manager, primarily assisted by Mr Sandy White. By April 2004, they had delivered a report summarising their findings entitled, 'Review and Develop Best Practice Human Source Management Policy'. This review led to the six-month pilot of a Dedicated Source Unit. A steering committee was established to oversee the program which included Mr Biggin. The pilot ran from November 2004 until May 2005, and following review, the SDU had become an operational unit.¹⁸⁹¹ At this time, the SDU sat within the State Intelligence Division of I&CS, whose Superintendent was Mr Ian Thomas, although it was considered by some that structurally it should have sat within Mr Biggin's Division. This ultimately came to pass in mid-2006.
1503. From his time at the MDID, Mr Biggin knew Ms Gobbo to be a barrister who represented a number of people that the MDID had investigated and charged, and that her practice as a barrister concentrated mainly on bail applications. Mr Biggin also understood that Ms Gobbo had personal relationships with many criminals.¹⁸⁹²

¹⁸⁸⁷ Exhibit RC0818 Letter from Mr Paul Walshe to Mr Noel Ashby, 11 May 2006, 81-84, VPL.0100.0120.0001 @.0081-.0084.

¹⁸⁸⁸ Exhibit RC0281 ICR3838 (032), 26 May 2006, 310, VPL.2000.0003.1896.

¹⁸⁸⁹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7518, 7528, TRN.2019.10.09.01; Exhibit RC0292 Mr Sandy White diary, 19 April 2006, 29, VPL.0100.0096.0157 @.0185.

¹⁸⁹⁰ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019 VPL.0014.0041.0008_R1; Transcript of Anthony (Tony) Biggin, 9 October 2019, 7500, TRN.2019.10.09.01.

¹⁸⁹¹ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 4-6 [15-34], VPL.0014.0041.0008_R1 @.0010-.0013.

¹⁸⁹² Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7470, 7475, TRN.2019.10.09.01.

Biggin's Knowledge of Ms Gobbo's Use as a Human Source

1504. Mr Biggin was aware of Ms Gobbo's use as a human source by Victoria Police from an early stage.
1505. On or around 5 October 2005, Mr Biggin attended a meeting along with Commanders Moloney and Mr Purton, Superintendent Thomas, Inspectors Hill and Hardie, Mr Sandy White and Cruze, Mr Peter Smith and Flynn, and Detective Senior Constable Burrows. The various attendees were members or supervisors of the SDU, the Crime Department (MDID/Purana Taskforce), and the UCU. The latter sat under Mr Biggin's command within the CSD of I&CS. During that meeting, or at least by the time of that meeting, Mr Biggin had learnt that Ms Gobbo was a human source. Mr Biggin's diary entry indicates that there was discussion of Mr O'Brien, who was interstate at the time,¹⁸⁹³ leading a new investigation, large enough that there would possibly be a new Taskforce, on the basis of the information being provided by Ms Gobbo.¹⁸⁹⁴ It was obviously expected this investigation would involve the UCU as well as the SDU.
1506. Following this meeting, Mr Biggin spoke to Mr Sandy White a number of times during October and November to discuss 'DSU issues'.¹⁸⁹⁵ He recalled being told by Mr Sandy White that Ms Gobbo had been speaking to a number of police, and her registration was an attempt to try and corral to whom she was providing information.¹⁸⁹⁶
1507. Mr Biggin's evidence to the Commission was, on finding out that Ms Gobbo was a human source, he thought that a practising defence barrister acting as a registered human source was unusual.¹⁸⁹⁷ He said he was alive to the potential for issues of conflict of interest and legal professional privilege.¹⁸⁹⁸
1508. Mr Biggin stated in evidence that he had no functional control over the SDU until there was a structural change within the I&CS Department in around mid-2006. Mr Biggin said he operated on the assumption that the SDU would deal with any issues that arose in using a practising barrister as a human source, including any issues of conflict of interest and legal professional privilege, which he assumed had been considered by those who had approved her registration. He said that he did not have any discussion of the issues he perceived with anyone who did have functional control of the SDU.¹⁸⁹⁹
1509. In late January to early February 2006, consideration was being given to using Ms Gobbo [REDACTED] during Operation Posse. On 2 February 2006, Ms Gobbo met with a [REDACTED] along with

¹⁸⁹³ Exhibit RC0933 Mr James (Jim) O'Brien diary, 3 - 7 October 2005, 301-302, VPL.0100.0073.0076_R1S @.0161-0162.

¹⁸⁹⁴ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 5 October 2005, 21, VPL.0005.0155.0659 @.0679.

¹⁸⁹⁵ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 7, 18 and 26 October, 9 November 2005, 24, 26, 27, 32, VPL.0005.0155.0659 @.0682, .0684, .0685, .0690.

¹⁸⁹⁶ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7474, TRN.2019.10.09.01.

¹⁸⁹⁷ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7473 - 7474, TRN.2019.10.09.01; Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 5 October 2005, 21, VPL.0005.0155.0659 @.0679.

¹⁸⁹⁸ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7475, TRN.2019.10.09.01.

¹⁸⁹⁹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7475, TRN.2019.10.09.01; Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 4 [15], VPL.0014.0041.0008_R1 @.0010.

the SDU for the purposes of [REDACTED]. This unit fell under the supervision of Mr Biggin.¹⁹⁰⁰

1510. On 13 February 2006, Mr Biggin met with Mr Sandy White in relation to 'DSU Ops'. This presumably involved discussion of matters in which both the SDU and one of Mr Biggin's units was involved.¹⁹⁰¹

1511. On 16 February 2006, Mr Biggin recorded an entry in his diary:

*A/C Overland re HS – to be protected – re Op Posse a priority – discuss possible tactics to manage.*¹⁹⁰²

1512. Mr Biggin said in evidence that Mr Overland told him that Ms Gobbo was an incredibly significant source being used by Victoria Police in relation to Operation Posse and he understood Mr Overland wanted to maintain her anonymity. He said he understood at the time that Operation Posse was targeting Mr Cooper, whom he was aware was already facing significant drug related charges.¹⁹⁰³ Mr Biggin said it was unusual that an Assistant Commissioner would tell him that a particular source needed to be protected.¹⁹⁰⁴

1513. Mr Biggin said that Operation Posse was significantly resourced and the four CSD units which reported to him were significantly involved in that investigation. This meant that he had to manage expectations of other areas of Victoria Police who were requesting services from these units.¹⁹⁰⁵

1514. Further to this, Mr Biggin referred to having to pick up some shortfalls in relation to management in the command.¹⁹⁰⁶ Mr Thomas, the other Superintendent within I&CS who was overseeing the SID (and therefore the SDU), left Victoria Police for the AFP in January 2006.¹⁹⁰⁷ He was replaced by Superintendent Mark Porter who did not have any involvement with the SDU until late March 2006.¹⁹⁰⁸

1515. A number of units under Mr Biggin's command had been involved in the arrest of Mr Cooper 22 April 2006. Following the arrest, he attended the clandestine laboratory. At 5:30pm he attended the St Kilda Road police station whilst Mr Cooper was in the custody of Victoria Police and was briefed by Mr Ryan and Mr O'Brien. He spoke to them again after 7:15pm

¹⁹⁰⁰ Exhibit RC0281 ICR3838 (017), 2 February 2006, 141-143, VPL.2000.0003.1727-1729.

¹⁹⁰¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 13 February 2006, 54, VPL.0005.0155.0659 @.0712; Exhibit RC0578 Mr Anthony (Tony) Biggin diary summary, 13 February 2006, 8, VPL.0005.0154.0001 @.0008.

¹⁹⁰² Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7477 – 7478, TRN.2019.10.09.01; Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 16 February 2006, 58, VPL.0005.0155.0659 @.0716.

¹⁹⁰³ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7477 – 7479, TRN.2019.10.09.01.

¹⁹⁰⁴ Transcript of Anthony (Tony) Biggin, 9 October 2019, 7508 -7509, TRN.2019.10.09.01.

¹⁹⁰⁵ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7477 - 7479, 7505, 7507, TRN.2019.10.09.01.

¹⁹⁰⁶ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7478 – 7479, TRN.2019.10.09.01.

¹⁹⁰⁷ Exhibit RC1259 Statement of Mr Ian Thomas, 18 September 2019, 2 [3(o)], VPL.0014.0056.0001 @.0002.

¹⁹⁰⁸ Exhibit RC0284 SML2958, 30 March 2006, 24 VPL.0005.0099.0024; Exhibit RC1566 Superintendent Mark Porter diary, 30 March 2006, 123, RCMPI.0069.0001.0002 @.0123.

when Mr O'Brien had left Mr Cooper speaking with Mr Flynn and Ms Gobbo.¹⁹⁰⁹

1516. Mr Biggin was aware that Ms Gobbo was present in her capacity as a barrister representing Mr Cooper. He recalled her attending at the Purana Taskforce offices, and being quite busy, moving between offices and talking to people.¹⁹¹⁰
1517. Mr Biggin said that he observed from a distance Ms Gobbo interacting with SDU handlers during the night.¹⁹¹¹ This must have been at around 9:00pm when she had finished speaking with Mr Cooper, as this was the only time Ms Gobbo, Mr Peter Smith and Mr Biggin had all been present at St Kilda Road Police Station that night.
1518. In his evidence to the Commission, Mr Biggin said he had not regarded the situation as complex, knowing that Ms Gobbo was a significant human source for Operation Posse, as well as the legal representative of Mr Cooper, rather he thought it was a normal lawyer/client relationship.¹⁹¹² Mr Biggin maintained in his evidence that he regarded Ms Gobbo to be acting as a barrister that night indicating that the conflict of interest did not occur to him.¹⁹¹³ Paradoxically, a few days later when conducting his audit of Ms Gobbo's human source file, Mr Biggin relied upon his observations from this night of SDU handlers interacting 'with the source in an operational setting'.¹⁹¹⁴
1519. The units under Mr Biggin's command continued to be used by Operation Posse in the days after Mr Cooper arrest when he was meeting [REDACTED] with various other targets of Operation Posse.¹⁹¹⁵ Mr Biggin was present at a meeting on the morning of 23 April 2006 with Mr Ryan, Mr O'Brien and others to discuss Operation Posse planning and tactics, and continued to have interactions with police members in the days following where such matters were discussed.
1520. On 24 April 2006 Mr Biggin briefed Mr Moloney about Operation Posse. Later that day, at 6:50pm he received a further briefing in relation to Operation Posse phases four and five 'as per op. order & notes'.¹⁹¹⁶ The Operation Order, which was signed as approved by Detective Superintendent Grant at 7:30pm, detailed, amongst other matters:

¹⁹⁰⁹ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 9 [46], VPL.0014.0041.0008_R1 @.0016; Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 22 April 2006, 12, VPL.0005.0155.0005 @.0016; Exhibit RC0933 Mr James (Jim) O'Brien diary, 22 April 2006, 130, VPL.0100.0073.0076_R1S @.0277.

¹⁹¹⁰ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 9 [47], VPL.0014.0041.0008_R1 @.0016; Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7511 – 7516, TRN.2019.10.09.01.

¹⁹¹¹ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 9 [47], VPL.0014.0041.0008_R1 @.0016; Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7511 – 7516, TRN.2019.10.09.01.

¹⁹¹² Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7516, TRN.2019.10.09.01.

¹⁹¹³ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7519-7521, TRN.2019.10.09.01.

¹⁹¹⁴ Exhibit RC0277 Issue Cover Sheet, Audit conducted of human source 21803838 records, 28 April 2006, VPL.2000.0002.0017.

¹⁹¹⁵ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7517, TRN.2019.10.09.01.

¹⁹¹⁶ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 24 April 2006, 13-17, VPL.0005.0155.0005, @.0017-.0021.

- the registration in September 2005 of Ms Gobbo, referred to initially by her registered number and then 'RHS'
- the significant information she had provided since that time relating to members of the Mokbel family and the numerous people working for them, including Mr Cooper
- that Ms Gobbo's information had led to the identification of the clandestine laboratory, where Messrs Cooper and Agrum had been arrested on 22 April 2006
- that following this, further evidence had been obtained by way of various forms of surveillance with respect to the involvement of Milad Mokbel, Horty Mokbel, Tony Bayeh, Bickley and other associates in the large scale supply of chemicals and manufacture of drugs of dependence throughout Victoria
- it was anticipated that Mr Cooper would meet Milad Mokbel that night to conduct a transaction, following which he would be arrested, and a number of warrants executed.¹⁹¹⁷

1521. The distribution list for this document included Mr Overland.

1522. On 25 and 26 April 2006, Mr Biggin continued to be involved and receive briefings on Operation Posse, in turn briefing Mr Moloney on a number of occasions.¹⁹¹⁸

1523. It was suggested to Mr Biggin that given his senior role, it was a serious failing that the conflict of interest did not occur to him and was not discussed by him with others. Mr Biggin responded that his role on the night of Mr Cooper arrest was as a service provider. He said Crime Command had their own management, and if there were concerns, they were for the investigators to resolve.¹⁹¹⁹

1524. Submissions concerning Mr Biggin's conduct in relation to Mr Cooper are contained in Chapter 11.

Knowledge and Responsibilities of Mr Moloney

1525. **On the evidence, it is open to the Commissioner to find that in the period from September of 2005 until 26 April 2006, Mr Moloney, as the Commander in charge of the I&CS division of Victoria Police was responsible for, or had responsibilities that included oversight of, the recruitment, handling and management of Ms Gobbo as a human source.**

1526. **Further, on the evidence, it is open to the Commissioner to find that by 26 April 2006, Mr Moloney, was aware of each or at least a number of the following matters:**

¹⁹¹⁷ Exhibit RC0763 Purana Taskforce, Operation Posse Phase One Operation Order, 24 April 2006, VPL.0099.0056.0001.

¹⁹¹⁸ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 25-26 April 2006, 17-18, VPL.0005.0155.0005, @.0021-.0022.

¹⁹¹⁹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7520, TRN.2019.10.09.01.

- 1526.1. **that Ms Gobbo was a criminal barrister who was registered as a human source and being handled and managed by the SDU**
- 1526.2. **that Ms Gobbo acted for persons who were involved or being investigated for involvement in serious criminal offending, in particular, drug offending**
- 1526.3. **that Ms Gobbo had been involved in providing highly sensitive information about the activities of alleged criminals, which was being utilised by units under Mr Overland's command including the Purana Taskforce, and in particular, in relation to Operation Posse**
- 1526.4. **that a focus of Purana's investigations, in which Ms Gobbo was being utilised, was to obtain information with a view to prosecuting Mr Mokbel and his criminal associates**
- 1526.5. **that Ms Gobbo had been acting as a barrister for Mr Tony Mokbel including in recent highly publicised criminal proceedings in which he had failed to appear prior to the jury verdict**
- 1526.6. **that Ms Gobbo's information had been significant and assisted in enabling the arrests in Operation Posse, which had occurred on 22 April 2006 and in the following days**
- 1526.7. **that Ms Gobbo was at very high risk of being harmed if it came to be known in criminal circles that she was a human source**
- 1526.8. **that the use of an active criminal barrister as an informer in the circumstances set out above was most unusual and was associated with risks that the administration of justice could be interfered with.**
1527. **If it is accepted that Mr Moloney knew of the above matters or some or any of them, then on the evidence, it is open to the Commissioner to find that, as the Commander of the I&CS Division with the said responsibilities, and in the circumstances, he should have, but did not take all reasonable steps to ensure that:**
 - 1527.1. **legal advice had been obtained to ensure that the handling and management of Ms Gobbo as a human source was appropriate and lawful;**
 - 1527.2. **there was not a risk that the handling and management of Ms Gobbo as a human source could interfere with the due administration of criminal justice;**
 - 1527.3. **he was aware of the circumstances in which Ms Gobbo was being handled and managed as a human source;**
 - 1527.4. **that all members of Victoria Police under his command were aware that Ms Gobbo could not be deployed as a human source to provide information against any person whom she was representing;**

1527.5. **that all members of Victoria Police under his command were aware that if Ms Gobbo purported to act for any person whom she had informed against then appropriate disclosure would need to be made to such person; or alternatively**

1527.6. **if disclosure was not to be made, then steps should be taken to ensure that advice was obtained from an appropriate legal practitioner such as a VGSO lawyer who was fully briefed with all relevant information concerning Ms Gobbo to provide appropriate advice.**

26 April 2006 – Updated SDU Risk Assessment

1528. On 26 April 2006, Mr Peter Smith completed an update of Ms Gobbo's 15 November 2005 Risk Assessment. The update was achieved by way of the addition to the old assessment of new risks and associated control measures for each of the risk categories, which were highlighted in bold.¹⁹²⁰
1529. In relation to the risk to Ms Gobbo of compromise, new risks included the identity of a number of those against whom Ms Gobbo was informing, the prospect of discovery by virtue of telephone intercepts by another law enforcement agency, and that '[i]n her role as a barrister, the Source has been involved in advising certain high level criminals making statements to assist Police. This may be perceived by those within the Mokbel group as the Source acting against their interests, which could result in physical harm to the Source.' One of the new control measures for this category included, 'If dealing with individuals who may make statements against the Mokbel group, Source to pass client to new legal representative.'
1530. In relation to the risk to the integrity of information, new risks included, '[i]n order to deliver information in a timely fashion, verbal updates are regularly passed on to Op Purana. Accidental disclosure of Source information may occur upon inappropriate release of member notes/diaries' and that '[p]rotocols were implemented at the IMU which included separate and secure directory storage of this Source's material, and minimising IMU personnel knowledge of this Source. Without consultation with DSU, these protocols have now been relaxed.' The relevant control measure stated, '[a]ll verbal communications with Op Purana conducted via OIC only.'
1531. Mr Sandy White, in his 'Overall Assessment' nominated the control measures as appropriate and provided his recommendation, 'Source is considered high risk and is both strategically and tactically viable. DSU management is therefore recommended.'

1532. **On the evidence, it is open to the Commissioner to find that by late April 2006:**

1532.1. **a number of members of the SDU were aware of the risks to the proper administration of justice arising from Ms Gobbo's use as a human source including her representation of**

¹⁹²⁰ Exhibit RC0286 Informer Registration, Part C Risk Assessment, 20-26 April 2006, VPL.2000.0003.8295.

clients against whom she was informing, having discussed, or been present when, relevant concerns were discussed with her

1532.2. those risks to the proper administration of justice were not, but should have been, identified in the updated risk assessment.

27 April 2006 – The Biggin Audit

1533. On 27 April 2006, Mr Biggin attended at the SDU to conduct his audit.¹⁹²¹
1534. It had been noted by Mr Sandy White when he was informed of the audit on 19 April 2006, that the purpose of the audit was to provide independent oversight of the management of Ms Gobbo, which amongst other matters would consider whether Ms Gobbo was 'too high risk'.¹⁹²²
1535. Mr Biggin said that his audit was to be a 'broad over-viewing audit', or an 'oversighting review', not to be a full audit which would have involved a review of the human source file at the IMU before proceeding to the SDU.¹⁹²³ When Mr Biggin said he could not recall having ever been asked to audit a single human source file previously, it was suggested that it must have struck him as unusual to have been asked to conduct a review on one file, and that he was only asked to do a very high level review. He said that he had not thought deeply about the matter, he just did the job he had been asked to do.¹⁹²⁴
1536. Whilst at the SDU, Mr Biggin spoke with Mr Sandy White, Mr Peter Smith, Mr Green, Mr Black and Mr Richards about Ms Gobbo and their various roles as her controller or handler.¹⁹²⁵
1537. Upon completion of his audit, Mr Biggin noted in his diary, 'no issues identified',¹⁹²⁶ and prepared a report in the form of an Issue Cover Sheet which examined compliance with human source policy, provided a risk assessment and made general observations before providing a recommendation in relation to Ms Gobbo's continued use by Victoria Police.¹⁹²⁷
1538. Mr Biggin noted approvingly in the report that he had the opportunity to observe SDU handlers 'interact with the source in an operational setting', referring to his observation of them at St Kilda Road Police Station on 22

¹⁹²¹ Exhibit RC0277 Issue Cover Sheet, Audit conducted of human source 21803838 records, 28 April 2006, VPL.2000.0002.0017.

¹⁹²² Exhibit RC0292 Mr Sandy White diary, 19 April 2006, 30, VPL.0100.0096.0157.

¹⁹²³ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7523 – 7524, TRN.2019.10.09.01.

¹⁹²⁴ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7534-7535, TRN.2019.10.09.01.

¹⁹²⁵ Exhibit RC0277 Issue Cover Sheet, Audit conducted of human source 21803838 records, 28 April 2006, VPL.2000.0002.0017.

¹⁹²⁶ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 23 April 2006, 21, VPL.0005.0155.0005 @.0025.

¹⁹²⁷ Exhibit RC0277 Issue Cover Sheet, Audit conducted of human source 21803838 records, 28 April 2006, VPL.2000.0002.0017.

April 2006 where Mr Biggin knew that Ms Gobbo was acting as Mr Cooper's barrister.¹⁹²⁸

1539. In relation to compliance with policy, the report included:
- that a potential 'minor' breach of force policy had been detected, although not associated with the SDU, in that there was no written evidence that the LIR had conducted the two quarterly inspections or reviews as required by force policy
 - there had been a significant number of recorded contacts with Ms Gobbo since her registration on 16 September 2005, the last of which that was on file dated from early March 2006, with others awaiting checking before filing
 - reference to the 'monthly source reviews' contained within the SML
 - reference to the updated risk assessment.
1540. In relation to the risk assessment, the report indicated that it was clear to Mr Biggin from his review of the file that the SDU had been mindful of the risks associated with Ms Gobbo, and the documents perused by him indicated that such risks were regularly considered and updated as required.
1541. Mr Biggin then made observations which included:
- Ms Gobbo's high personal profile within her 'chosen industry' and the media was a potential risk to her and to Victoria Police
 - from his review of the files, Ms Gobbo's motive remained unclear, although it was clear she had a dislike for certain persons involved in high level criminal behaviour
 - the initial purpose for Ms Gobbo assisting police had been achieved
 - further deployment would need to be carefully planned, and may be of a non-operational nature
 - concern as to the number of people aware of Ms Gobbo's status as a source, indicating awareness by at least two teams and management from the MDID, Taskforce Purana staff, ACC staff, SID staff, ESD management, some CSD staff (State Surveillance Unit [SSU] and UCU) and the IMU/HSMU
 - Ms Gobbo had an association or relationship with a number of ex police, including David Waters, Paul Dale and Richard Shields, all well known to ESD
 - Ms Gobbo had identified aspects of alleged police corruption.
1542. Mr Biggin reported satisfaction that Victoria Police should continue its relationship with Ms Gobbo indicating that she was a valuable asset who continued to provide 'excellent information' which had 'led to successful outcomes'. He could only have been referring to the recent arrest and 'rolling' of Mr Cooper.

¹⁹²⁸ Exhibit RC0277 Issue Cover Sheet, Audit conducted of human source 21803838 records, 28 April 2006, VPL.2000.0002.0017.

1543. Mr Biggin told the Commission that despite having being told by Mr Overland in February 2006 that Ms Gobbo was a significant source for Operation Posse, and knowing that Mr Cooper was a significant target of Operation Posse, he was not aware that Ms Gobbo was providing information about Mr Cooper or any other serious criminal activity until he conducted this audit. He said it was only during the audit process that he had become aware of the nature of the information and intelligence that Gobbo was providing, and that the interaction between Ms Gobbo and Victoria Police was broader than what he had presumed prior to that time.¹⁹²⁹
1544. Mr Biggin conceded that he should have recommended in his report that legal advice be sought about Ms Gobbo's use, although said he did not turn his mind to problems which may have arisen as a result of Ms Gobbo's profession.¹⁹³⁰
1545. Submissions regarding Mr Biggin's conduct in this regard are contained in Chapter 11. In particular, it contains a submission to the effect that between May 2006 and February 2007, Mr Biggin knew that Ms Gobbo was a human source, was informing on her clients, that she had a conflict of interest, that her informing led to Mr Cooper's arrest, that he was aware that Victoria Police was using Ms Gobbo to encourage Mr Cooper to implicate his associates (or alternatively that Ms Gobbo was being allowed to do so) and that there was no intention to disclose Ms Gobbo's role to those it should have been disclosed to.

1546. Further, on the evidence, it is open to the Commissioner to find that, despite his evidence to the contrary, when conducting his audit, Mr Biggin did turn his mind to the risk of impropriety in the use of Ms Gobbo as a human source. That is so, because:

- 1546.1. he was an extremely experienced Detective including in relation to human source management**
- 1546.2. he knew the use of a defence barrister as a human source was 'unusual' and had earlier given evidence that he had been alive to associated issues**
- 1546.3. he knew Ms Gobbo to be a human source providing information being used by Operation Posse**
- 1546.4. he knew Mr Cooper was a target of and was arrested as part of Operation Posse**
- 1546.5. he knew Ms Gobbo attended to provide legal representation to Mr Cooper when he was arrested**
- 1546.6. at least by the time of his audit,¹⁹³¹ if not well before, he knew that Ms Gobbo had provided the information which led to Mr Cooper's arrest.**

¹⁹²⁹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7525, TRN.2019.10.09.01.

¹⁹³⁰ Exhibit RC0577b Further statement of Mr Anthony (Tony) Biggin, 25 July 2019 12 [62], VPL.0014.0041.0008_R1 @.0019; Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7525, 7543, 7561, TRN.2019.10.09.01.

¹⁹³¹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7557-7559, TRN.2019.10.09.01.

1547. **Alternatively, if it is not accepted that when conducting his audit, Mr Biggin did turn his mind to the risk of impropriety in the use of Ms Gobbo as a human source, on the evidence, it is open to the Commissioner to find that Mr Biggin should have turned his mind to the risk of such impropriety. That is so for the reasons set out in paragraphs [1546.1] to [1546.6] above, and further Mr Biggin's acceptance that he should have recommended that legal advice be sought.**¹⁹³²

1548. As indicated below, within months, the SDU was under Mr Biggin's command.

Change in Structure of the I&CS Department

1549. Both the DSU and the HSMU were initially part of the SID, reporting to the Superintendent of the State Intelligence Division, who in 2005 was Mr Thomas and in 2006 was Mr Porter. Others also acted in that role from time to time.

1550. Mr Biggin told the Commission that in his time overseeing the DSU Pilot he formed the opinion that a conflict existed between the SDU and the HSMU reporting to the same Superintendent.¹⁹³³ He considered that, as the HSMU was responsible for developing human source policy and practice, as well as adherence to that policy, it was not appropriate for the same Superintendent to be managing the DSU who handled sources directly. There was an obvious lack of independence for any Superintendent in holding both those roles according to Mr Biggin.¹⁹³⁴

1551. Consequently, from July 2006, the SDU (renamed from the DSU in around May 2006), officially became part of the Covert Support Division, headed by Mr Biggin. The HSMU remained part of the SID.

1552. At around the same time, a new Inspector, Mr Rob Hardie came to supervise the SDU. Although Mr Hardie was also the Inspector for the UCU, it is apparent that he had more involvement with the SDU than was the case with previous Inspectors with oversight responsibilities.

Lack of Dedicated Inspector

1553. It is noted that the lack of a dedicated Inspector for the SDU had been identified as a deficiency during the SDU pilot. This was a situation that persisted until 2010. Mr Biggin stated that the need for a dedicated

¹⁹³² Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019 12 [62] VPL.0014.0041.0008_R1 @.0019; Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7525, 7543, 7561, TRN.2019.10.09.01.

¹⁹³³ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019 7 [37], VPL.0014.0041.0008_R1 @.0014.

¹⁹³⁴ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019 6-7 [36], VPL.0014.0041.0008_R1 @.0013-.0014.

Inspector was obvious, considering the high risk nature of the work undertaken by the SDU and UCU.¹⁹³⁵

1554. **On the evidence, it is open to the Commissioner to find that from its inception, a dedicated Inspector should have been attached to the SDU. That is so because of:**

1554.1. **the historical issues that Victoria Police had experienced with human source management**

1554.2. **the significant and ongoing risks that the use of human sources posed**

1554.3. **the potential consequences of not having a full-time Inspector dedicated solely to the high risk operations of the SDU should have been apparent to Command.**

1555. It is submitted that, given the level of awareness and apparent connivance of the upper echelons of Victoria Police, whilst one cannot say that a dedicated Inspector would have prevented the significant failures that, it is submitted, occurred in the use and management of Ms Gobbo, a dedicated Inspector may well have received, identified and/or properly considered the serious concerns that were being identified within the SDU along the way.

Conflicts and Disclosure Issues

██████████ 2006 on – Gobbo Representation of ██████████

1556. On ██████████ 2006, ██████████, along with co-accused ██████████, were arrested by ██████████ following an intercept and search of his vehicle during which a large amount of ██████████ and a quantity of ██████████ was located. ██████████ made a 'no comment' record of interview and was released without charge.¹⁹³⁶ ██████████ were in a Purana Taskforce crew led by ██████████.¹⁹³⁷

1557. A few days later Ms Gobbo was discussing with the SDU suspicions held by ██████████ about ██████████ having been released without charge. She told the SDU that the chemicals were being transported on behalf of ██████████. Mr O'Brien was updated with this information.¹⁹³⁸ In the days thereafter she was reporting ██████████ being upset at not having been told of the arrest and therefore the possibility that he might have police attention on him. This was conveyed to Mr O'Brien.¹⁹³⁹

¹⁹³⁵ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 8 [40], VPL.0014.0041.0008_R1 @.0015.

¹⁹³⁶ Exhibit RC1849 Police summary, *Police v* ██████████, Undated, ██████████; Exhibit RC1847 Plea opening, ██████████

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a statement after he had been released on bail. Ms Gobbo said she told [REDACTED] that was not true and she had not seen [REDACTED] since that time.¹⁹⁵⁴

1573. On [REDACTED] 2006 Ms Gobbo's handler told her that she should not continue to provide representation to [REDACTED] as 'it would be an unnecessary complication.'¹⁹⁵⁵ Despite this, Ms Gobbo accepted a brief to draft a Form 8A on behalf of [REDACTED] on [REDACTED] 2006.¹⁹⁵⁶

1574. The Crown relied on the evidence of [REDACTED] in the prosecution of the following persons: [REDACTED]
[REDACTED]
[REDACTED]

1575. On [REDACTED] 2008, [REDACTED] was arraigned and pleaded guilty to one count of trafficking in [REDACTED].¹⁹⁶⁴

2 May 2006 – Gobbo Reports Threat by Horty Mokbel

1576. Later that day Ms Gobbo reported to the SDU having received a visit by Horty Mokbel who had grabbed her by the throat and accused of being a police informer, and later when he had calmed down he accused her of helping the police. Ms Gobbo had responded that she had previously been accused of being involved with his family in a criminal sense and asked what he was talking about. She believed he had left satisfied with her response, but said he was hard to read. Horty Mokbel indicated to her that he wanted [REDACTED] so they could work out how the arrests had occurred.¹⁹⁶⁵

17 May 2006 – Gobbo Concern about Disclosure in Domenic Barbaro Bail Application

1577. Domenic Barbaro was arrested as part of Operation Posse on 17 May 2006. He was charged with trafficking in a large commercial quantity of methamphetamine relating to the manufacture of drugs at the clandestine

[REDACTED]
[REDACTED]
[REDACTED]

¹⁹⁵⁷ Exhibit RC1895 Witness List re [REDACTED].

¹⁹⁵⁸ Exhibit RC1896 Witness List *Police v* [REDACTED].

¹⁹⁵⁹ Exhibit RC1851 Presentment No U01990298, *R v* [REDACTED] 2008, 8,

¹⁹⁶⁰ Exhibit RC1850 Presentment no : – [REDACTED]

¹⁹⁶¹ Exhibit RC1896 Witness List, *Police v* [REDACTED].

¹⁹⁶² Exhibit RC1897 Witness List, *Police v* [REDACTED].

¹⁹⁶³ Exhibit RC1844 Office of Public Prosecutions Victoria Annexure A - Witnesses and Related Accused Matter Outcomes, 29 May 2020, 4, OPP.0056.0001.0001.

¹⁹⁶⁴ Exhibit RC1844 Office of Public Prosecutions Victoria Annexure A - Witnesses and Related Accused Matter Outcomes, 29 May 2020, 1, OPP.0056.0001.0001.

¹⁹⁶⁵ [REDACTED].

laboratory at which Mr Cooper had been arrested. Mr Rowe was the informant.¹⁹⁶⁶

1578. That day, Ms Gobbo advised Mr Peter Smith that Mr Robert Richter would be representing Mr Barbaro in a bail application, and expressed concern that the informant would be cross-examined in such a way that would compromise her role as a human source, and would reveal when she learned of the arrests of Messrs Cooper and Agrum. Following this, Mr Peter Smith spoke with Mr Flynn who indicated that Mr Rowe was the informant and he was 'aware of issues'.¹⁹⁶⁷

May - June 2006 – Gobbo Involvement in Cooper's Statements

1579. As identified in Chapter 11, in mid-May, when Mr Cooper was in the midst of making various statements, Ms Gobbo was brought in by Mr Flynn to speak with him. It appears clear that Ms Gobbo was brought in over concerns by Mr Flynn that Mr Cooper might not be telling the whole truth about financial matters and that he was protecting other associates. Ms Gobbo later reported to her handlers that she had spoken to Mr Cooper about 'how to make him 'bullet proof' from cross examination'.
1580. Thereafter, and through to the end of the year, members of Victoria Police continued to engage with Ms Gobbo about Mr Cooper's statement taking process and ongoing co-operation with the authorities, as well as the prosecutions against him.

17 May 2006 – SDU Meeting with Overland

1581. On 17 May 2006, Mr Overland met with Mr Sandy White and Mr Peter Smith regarding a possible reward for Ms Gobbo and the process for withdrawal of Ms Gobbo as a human source.¹⁹⁶⁸ Mr Sandy White was unable to recall what the trigger was for this meeting.¹⁹⁶⁹
1582. This involved a discussion of Ms Gobbo's motivation, after which it was considered a financial reward was not appropriate. Consideration was to be given to other options including funding a trip to Las Vegas for a Celine Dion concert, and to Mr Overland giving Ms Gobbo an acknowledgement of appreciation. Mr Overland was advised that Ms Gobbo was aware that Mr Overland knew of her role as a human source, but she understood he did not know the extent of her assistance. This was obviously not true.¹⁹⁷⁰
1583. There was also discussion about the need for counselling for Ms Gobbo.¹⁹⁷¹
1584. As far as the Commission can ascertain, Mr Overland did not record the meeting in his diary.¹⁹⁷²

¹⁹⁶⁶ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 12-13 [92], VPL.0014.0035.0028 @.0039-.0040.

¹⁹⁶⁷ Exhibit RC0281 ICR3838 (032), 17 May 2006, 301, VPL.2000.0003.1887.

¹⁹⁶⁸ Exhibit RC0284 SML3838, 17 May 2006, 32 VPL.0005.0099.0001 @.0032; Exhibit RC0292 Mr Sandy White diary, 17 May 2006, 106, VPL.2000.0001.0677 @.0782; Exhibit RC0486 Mr Peter Smith diary, 17 May 2006, 163, VPL.2000.0001.5454 @.5616.

¹⁹⁶⁹ Transcript of Mr Sandy White, 7 August 2019, 4090, TRN.2019.08.07.01.

¹⁹⁷⁰ Exhibit RC0292 Mr Sandy White diary, 17 May 2006, 106, VPL.2000.0001.0677 @.0782.

¹⁹⁷¹ Exhibit RC0292 Mr Sandy White diary, 17 May 2006, 106, VPL.2000.0001.0677 @.0782.

¹⁹⁷² Exhibit RC0984 Mr Simon Overland diary, 17 May 2006, 271, VPL.0005.0264.0053 @.0323.

1585. Mr Overland was queried as to why he was having these conversations with the SDU, when their line superior was Mr Moloney. Mr Overland said that he believed he had discussions with Mr Moloney about the need to consider termination of the relationship with Ms Gobbo. He said that he was telling the SDU that he believed Ms Gobbo's role was going to be problematic, given that in normal discovery processes that would be followed there was 'some chance' she would be discovered and was therefore suggesting they needed to think about a termination strategy.¹⁹⁷³
1586. Mr Overland said that following these discussions he did not follow up with then Detective Inspector Ryan, Mr Biggin or Mr Sandy White as to whether Ms Gobbo was being eased out or getting psychological treatment.¹⁹⁷⁴

22 May 2006 – Monthly Source Review

1587. On 22 May 2006, a unit meeting took place at the SDU. Later that day in his 'Monthly Source Review' (the last being on 27 March 2006), Mr Sandy White noted that:
- Ms Gobbo continued to be a very productive source of intelligence for Operation Purana
 - since the arrest of Milad Mokbel, Ms Gobbo had been under suspicion as an informer
 - an updated risk assessment had been prepared by Mr Peter Smith.
1588. He concluded that her value remained high, as did her risk, and that continued management by the SDU was essential.¹⁹⁷⁵

26 May 2006 – Email to Mr Overland and Mr Grant

1589. As will be recalled from Chapter 9, Solicitor 2 had been arrested and charged in May 2005 on charges relating to giving false evidence to the ACC and possession of a firearm. Upon her arrest she sought advice from Ms Gobbo.
1590. On 26 May 2006, Detective Senior Constable Ian Marr, the Purana informant in the case, emailed Mr O'Brien copying in Mr Ryan.¹⁹⁷⁶ Mr Marr indicated that Solicitor 2 had elected to take the charges to trial which he regarded as a delaying tactic saying '[u]nfortunately there is nothing we can do about this. Something to do with her rights.'
1591. Mr Marr reported that Solicitor 2 had been represented by Ms Gobbo, and that service of the brief, which was due by 11 July 2006, would occur on either Solicitor 2 or Ms Gobbo.
1592. He further noted that evidence would be required on the brief from ██████, who would likely be required for cross-examination at committal. ██████ was a ██████.

¹⁹⁷³ Transcript of Mr Simon Overland, 17 December 2019, 11531-11532, TRN.2019.12.17.01.

¹⁹⁷⁴ Transcript of Mr Simon Overland, 19 December 2019, 11715, TRN.2019.12.19.01.

¹⁹⁷⁵ Exhibit RC0284 SML3838, 17 May 2006, 32 VPL.0005.0099.0001 @.0032.

¹⁹⁷⁶ Exhibit 1686 Email from James (Jim) O'Brien to Simon Overland and Richard Grant, 23 May 2006, VPL.0099.0113.0738.

1593. Mr O'Brien forwarded this email to Mr Overland and Mr Grant, noting it would impact on Victoria Police dealings with [REDACTED].¹⁹⁷⁷ Mr Overland had had personal dealings with [REDACTED].

26 May 2006 – Handler Handover

1594. On 26 May 2006, there was a change of handlers from Mr Peter Smith to Mr Green.¹⁹⁷⁸ Mr Peter Smith completed a briefing document for Mr Green entitled, '#3838 Current issues 26/05/06', which as the name suggests detailed the state of play with various people Ms Gobbo was providing information about and other issues. The briefing included:¹⁹⁷⁹

1594.1. in relation to relevant arrests –

- when the arrest/s were imminent the handler should advise Ms Gobbo as appropriate, especially those of Horty Mokbel and Mr Bickley

1594.2. in relation to Horty Mokbel –

- had threatened Ms Gobbo with violence and accused her of being an informer on 2 May 2006, after which Ms Gobbo confronted him and he backed off slightly
- to advise Mr O'Brien if Horty Mokbel was going to visit Milad Mokbel so Purana could get access to the conversation

1594.3. in relation to Milad Mokbel –

- Ms Gobbo had been to see Milad Mokbel in custody at his request, who kind of apologised for Horty Mokbel's behaviour
- Milad Mokbel said he had no intention of applying for bail and wanted to plead guilty, and has been told Ms Gobbo would not act due to conflict with Mr Cooper

1594.4. in relation to Cooper –

- statements were still being taken from Mr Cooper by various investigators, although the main contact is with Mr Flynn
- the SDU had not yet seen statements but believed them to be full and frank
- Mr O'Brien had indicated he was happy to supply copies for Ms Gobbo to 'check on the quiet but better if not openly involved in this process'
- Ms Gobbo receives frequent phone calls from Mr Cooper who is relying heavily upon her for overall situation and support
- the affidavits in relation to Domenic Barbaro reveal the date of Mr Cooper's arrest

¹⁹⁷⁷ Exhibit RC1686 Email from James (Jim) O'Brien to Simon Overland and Richard Grant, 23 May 2006, VPL.0099.0113.0738.

¹⁹⁷⁸ Exhibit RC0284 SML3838, 26 May 2006, 33, VPL.0005.0099.0001 @.0033.

¹⁹⁷⁹ Exhibit RC0301 #3838 current issues, 26 May 2006, VPL.2000.0001.9408.

- Ms Gobbo has been advised to speak with Mr Flynn direct re 'client matters' as there are too many issues to convey, but she is to keep the handler in the loop

1594.5. in relation to Mr Cvetanovski –

- he rings Ms Gobbo fairly regularly
- he had been contacted by phone by Mr Cooper with investigators present
- he was likely to be arrested by the Purana Taskforce
- Ms Gobbo was aware of his probable arrest but not of the evidence
- it was believed Mr Cooper was withholding information about Mr Cvetanovski

1594.6. in relation to Mr Bickley –

- he still rings and wants to see Ms Gobbo
- he will probably get arrested when Mr Cooper statements are finished and will no doubt ring Ms Gobbo when this occurred

1594.7. in relation to Mr Karam –

- contact had dropped off recently but still appears to be on side with Ms Gobbo

1594.8. in relation to Mr Thomas -

- it was still uncertain whether he would 'roll', although Ms Gobbo believed he would
- Mr Thomas was hesitating in relation to some discrepancies in Purana material
- Mr Cooper may now have also implicated him in drug offending
- the Purana Taskforce did not want to see him again until he was going to tell them the 100 per cent truth

1594.9. in relation to VicPol member, Richard Shields

- background information (relevant to Operation Khadi)

1594.10. Human Source and personal matters

- Ms Gobbo had hinted at a reward which had not been discussed at this stage
- no information was to be given to her relating to meeting with Mr Overland (17 May 2006) or any other rewards at this stage
- a recent routine search of her car at the prison located \$15,000 in her boot which had not been discussed with handlers and was to be raised at the next meeting.

The Nolan Audit

22 May 2006 – Nolan Instructed to Conduct Audit

1595. On 22 May 2006, Superintendent Lucinda Nolan commenced a four-week secondment with the SID, acting temporarily in the position occupied by Mr Porter. On 18 May 2006, in advance of her commencement, Ms Nolan had spoken with Mr Porter about the secondment.
1596. Around this time, Ms Nolan was directed to conduct a 'procedural, ethical and value for money' audit of human source files at the SDU. Ms Nolan understood that the ethical component of this required her to consider whether the SDU was 'generally doing the right things for the right reasons'.¹⁹⁸⁰ During a meeting between Mr Sandy White and Mr Porter on 16 May 2006 the planned audit had been raised.¹⁹⁸¹

23 to 25 May 2006 – Concern as to What to Tell Nolan about '3838'

1597. On 23 May 2006, Mr Sandy White received an instruction from Mr Cowlshaw that if he was asked by Ms Nolan about the identity of any human source, 'particularly 3838', he should refer her to the Commander. At around this time Mr Biggin was Acting Commander of I&CS. Later that afternoon, Mr Sandy White noted in his diary a number of issues to raise at a meeting with Mr Biggin, one of which was 'Supt Nolan knowledge of 3838'.¹⁹⁸² Mr Sandy White met with 'A/Com Biggin' two days later on 25 May 2006. During the meeting Mr Sandy White requested instructions as to what Ms Nolan should be told as to the identity of human sources, indicating he had been instructed not to tell her and to refer her to the Commander. Mr Biggin told Mr Sandy White to advise him if Ms Nolan asked any such questions.¹⁹⁸³
1598. Mr Moloney told the Commission that there was no attempt to conceal from Ms Nolan the fact that a lawyer was a human source.¹⁹⁸⁴ Likewise, Mr Biggin rejected any assertion that there had been a deliberate plan to keep Ms Gobbo's file from Ms Nolan. Mr Biggin said he did not see any reason why Ms Gobbo's identity would be kept from Ms Nolan, despite Mr Sandy White having expressed concern about what to tell Ms Nolan should she be asking such questions.¹⁹⁸⁵
1599. On 31 May 2006, Ms Nolan met with Mr Biggin for approximately 15 minutes 're DSU audit of high risk sources'. She stated to the Commission she no longer had any recollection of what had been discussed.¹⁹⁸⁶

¹⁹⁸⁰ Exhibit RC1238 Statement of Ms Lucinda Nolan, 27 November 2019, 5-6 [25]-[27], [30], VPL.0014.0101.0001 @.0005 - .0006.

¹⁹⁸¹ Exhibit RC0292 Mr Sandy White diary, 16 May 2006, 69, VPL.0100.0096.0157 @.0225.

¹⁹⁸² Exhibit RC0292 Mr Sandy White diary, 23 May 2006, 82, VPL.0100.0096.0157 @.0228.

¹⁹⁸³ Exhibit RC0292 Mr Sandy White diary, 25 May 2006, 89-90, VPL.0100.0096.0157 @.0245-.0246.

¹⁹⁸⁴ Transcript of Mr Dannye Moloney, 20 February 2020, 14638, TRN.2020.02.20.01.

¹⁹⁸⁵ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7534-7535, TRN.2019.10.09.01.

¹⁹⁸⁶ Exhibit RC1238 Statement of Ms Lucinda Nolan, 27 November 2019, 6 [32], VPL.0014.0101.0001 @.0006.

1600. On 2 June 2006, Mr Sandy White met with Ms Nolan and conveyed her to the SDU so she could conduct the audit. She returned again on 8 June 2006.¹⁹⁸⁷

June 2006 – the Audit Report

1601. On 15 June 2006, Ms Nolan submitted her audit report.¹⁹⁸⁸ The audit involved an examination of informer management files to ensure, amongst other matters:

- the authorisation for registration had been given by the LIR
- following the initial risk assessment, that further risk assessments had been completed when necessary
- there was evidence on the Activity Log to indicate the handler had briefed the informer as to responsibilities and expectations (AOR)
- all ICRs were attached to the file
- evidence of quarterly inspection conducted by the LIR was endorsed on the file.

1602. The audit then listed various deficiencies identified in Ms Nolan's review of each informer management file. These included matters such as failure to submit or missing ICRs, monthly reviews, AOR, change of handler forms.

1603. When it came to her report on 'File 3838', Ms Nolan stated, 'Audit completed by Superintendent Biggin'.

1604. Had Ms Nolan had the opportunity to examine Ms Gobbo's file she would have found it lacking in various of the ways mentioned above. Beyond this, it was to be expected that in considering whether a further risk assessment was warranted, Ms Nolan would have had the opportunity to read the current risk assessment and ICRs. In doing so, she would have come to understand that Victoria Police were using a human source:

- who was a criminal barrister, extremely well known with the legal fraternity
- who was acting for several members of the Mokbel criminal cartel including Tony Mokbel
- who was providing valuable intelligence in relation to the criminal activities of the Mokbel cartel
- the circumstances of her having recently informed upon and then advised following arrest of Mr Cooper, not to mention Messrs Agrum, Milad Mokbel and Cvetanovski
- all in circumstances where no legal advice had been taken.

¹⁹⁸⁷ Exhibit RC0292 Mr Sandy White diary, 2 June 2006, 100, VPL.0100.0096.0157 @.0256; Exhibit RC1238 Statement of Ms Lucinda Nolan, 27 November 2019, 7 [34], VPL.0014.0101.0001 @.0007.

¹⁹⁸⁸ Exhibit RC0349 Memorandum to Commander Dannye Moloney from Superintendent Lucinda Nolan, 15 June 2006, VPL.2000.0002.0887.

The Bickley Arrest – Mark II

Recap

1605. As referred to earlier in this Chapter:
- 1605.1. in August 2005 Mr Bickley had been arrested and charged with trafficking in a large commercial quantity of MDMA and possession of cocaine
 - 1605.2. Ms Gobbo had been briefed to appear for Mr Bickley at his bail application
 - 1605.3. the Detectives involved in Mr Bickley's arrest recruited his lawyer as a human source.
 - 1605.4. following her recruitment, Ms Gobbo had provided information to police about Mr Bickley
 - 1605.5. one significant matter that Ms Gobbo had told Victoria Police about was that Mr Bickley appeared to have significant information about the criminal activities of Tony Mokbel, who held concerns Mr Bickley would assist the police. Accordingly, part of the Operation Posse investigation plan was to [REDACTED], and to motivate him to do so by further investigation of his criminal activities
 - 1605.6. in March 2006, Ms Gobbo was involved in passing a phone between Mr Bickley and Mr Cooper so they could communicate in relation to a pill press machine. In doing so, Ms Gobbo had obtained the mobile telephone number which was provided to police, although created a potential compromise issue
 - 1605.7. in April 2006, after Mr Cooper was arrested and agreed to co-operate with the police, he attended a meeting with Mr Bickley [REDACTED] discussing a pill press and a large quantity of ecstasy with Mr Cooper, who had sought Ms Gobbo's reassurance several times prior to the conversation.

7 June 2006 – Gobbo Provides SDU with 'Bickley Arrest Tips'

1606. On 7 June 2006, Mr Sandy White spoke with Mr O'Brien about the arrest [REDACTED] of Mr Bickley. They arranged a meeting the following morning. Mr Sandy White then updated Mr Green who was handling Ms Gobbo, and tasked him to gather information from Ms Gobbo which would assist with Mr Bickley.¹⁹⁸⁹ Ms Gobbo was asked by her handler, Mr Green, for 'angles on gaining Mr Bickley's assistance on arrest', which he laid out under the heading 'Bickley Arrest Tips'. Ms Gobbo advised that:
- Mr Bickley had a business idea which was worth millions to him, and that he should be released on bail so that he could further his business idea, which was worth millions

¹⁹⁸⁹ Exhibit RC0292 Mr Sandy White diary, 7 June 2006, 106, VPL.0100.0096.0157 @.0262.

- he no longer had Tony Mokbel's backing as had previously been promised
- the approach to him should be short and to the point
- there should be no threats like there had been when he was interviewed in August 2005.¹⁹⁹⁰

8 June 2006 – SDU and Purana Meet to Discuss Bickley Plan

1607. On 8 June 2006, the SDU's Mr Sandy White and Mr Green met with Purana Taskforce investigators, Mr O'Brien, Mr Flynn and Mr Rowe, where the arrest tips were passed to investigators.¹⁹⁹¹ Mr Rowe accepted the likelihood that such matters were passed to investigators at this meeting, and that he would have understood that the SDU had such information about Mr Bickley by virtue of Ms Gobbo's relationship with him.¹⁹⁹² Mr O'Brien disagreed that investigators would have been interested in such information saying, 'police would conduct their own assessment of what the best way to approach a person was. We're not relying on her information'.¹⁹⁹³ Mr Flynn said he would imagine this would have been similar to the discussion had prior to the arrest of Mr Cooper. He agreed that the discussion possibly included consideration of Ms Gobbo's involvement.¹⁹⁹⁴

1608. Those at the meeting discussed the intention to arrest, interview ██████████ ██████████ Mr Bickley on 13 June 2006. They hoped that he would assist in the prosecution of Horty Mokbel and Abdul Radi. Mr Sandy White noted that there was discussion about the potential involvement of Ms Gobbo:

Issues:

- *[Bickley] ringing HS for advice on arrest*
- *Agreed HS not to become involved. Unavailable.*
- *Do not want HS being accused of failing to advise Horty etc*
- *Check [with] HS re what intel can be released*
- *HS to be asked re impact to her of Bickley arrest.*¹⁹⁹⁵

1609. Investigators also told Messrs Sandy White and Green that statements taken from Mr Cooper were ready for perusal by Ms Gobbo the following day, as well as draft listening device transcripts.¹⁹⁹⁶ One of those transcripts

¹⁹⁹⁰ Exhibit RC0281 ICR3838 (034), 7 June 2006, 320, VPL.2000.0003.1906.

¹⁹⁹¹ Exhibit RC0281 ICR3838 (034), 7 June 2006, 320 VPL.2000.0003.1906; Exhibit RC0292 Mr Sandy White diary, 8 June 2006, 107, VPL.0100.0096.0157; Exhibit RC0567 Mr Green diary, 8 June 2006, 165, RCMP.0086.0001.0001 @.0165; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 8 June 2006, 14, RCMP.0065.0001.0001, @.0014; Exhibit RC0560 Inspector Dale Flynn diary, 8 June 2006, 1, VPL.0010.0007.0226 @.0226.

¹⁹⁹² Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9214, TRN.2019.11.13.01.

¹⁹⁹³ Transcript of Mr James (Jim) O'Brien, 9 September 2019, 5844 – 5856, TRN.2019.09.09.01.

¹⁹⁹⁴ Transcript of Inspector Dale Flynn, 2 October 2019, 7019 – 7020, TRN.2019.10.02.01.

¹⁹⁹⁵ Exhibit RC0292 Mr Sandy White diary, 8 June 2006, 107, VPL.0100.0096.0157 @.0263; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 8 June 2006, 14, RCMP.0065.0001.0001, @.0014; Exhibit RC0560 Inspector Dale Flynn diary, 8 June 2006, 1, VPL.0010.0007.0226 @.0226.

¹⁹⁹⁶ Exhibit RC0281 ICR3838 (034), 7 June 2006, 320 VPL.2000.0003.1906; Exhibit RC0292 Mr Sandy White diary, 8 June 2006, 107, VPL.0100.0096.0157 @.0263; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 8 June 2006, 14, RCMP.0065.0001.0001, @.0014; Exhibit RC0560 Inspector Dale Flynn diary, 8 June 2006, 1, VPL.0010.0007.0226 @.0226.; Exhibit RC0933 Mr James (Jim) O'Brien diary, 8 June 2006, 9:20, 160, VPL.0100.0073.0076_R1S @.0291.

was of the conversation between Messrs Cooper and Bickley in April 2006.¹⁹⁹⁷

9 June 2006 – Gobbo and SDU Discuss Pending Bickley Arrest

1610. On 9 June 2006, Ms Gobbo met with Mr Sandy White and Mr Green and discussed the impending second arrest of Mr Bickley. Ms Gobbo also expressed concern at this meeting that Mr Bickley might be interviewed by someone other than Mr Flynn, and the possibility that Mr Bickley might reveal that she had been involved in passing a phone between he and Mr Cooper:¹⁹⁹⁸

MR SANDY WHITE: Bickley.

MR GREEN: questions.

MR SANDY WHITE:

MS GOBBO: Yep.

MR GREEN: Who's he gunna ring when he gets pinched?

MS GOBBO: Me, I suspect.

MR GREEN: Is that a good thing?

MS GOBBO: It has - it's good and bad.

MR GREEN: Mm, that's what I thought. That's what we thought.

MS GOBBO: Yeah, it's good from - good from the point of view, one, that he will be properly represented. Two I've got a vested interest in not telling the truth to the police about the phone that I handed over to them, 'cause I don't think - I don't know who's gunna arrest him. What if some police officer doesn't know anything about me? Or what if

MR GREEN: Oh, well, that's not - that's not the problem, it's just a problem at a high level - but anyway, that's - - -

MS GOBBO: Hang on, Green. It is a problem. What if eight police in the crew that arrest him, when it happens, and let's say one out of eight police - say Dale's there, and he happens to know the - the true picture.

MR GREEN: Mm.

MS GOBBO: So that's O.K., 'cause if any - any - if [Bickley] says anything to him about the whole meeting [Mr Cooper] phone exchange scenario - - -

¹⁹⁹⁷ Transcript of Inspector Dale Flynn, 2 October 2019, 2074, TRN.2019.10.02.01.

¹⁹⁹⁸ Exhibit RC0358 Audio of meeting between Nicola Gobbo, Sandy White, and Peter Smith, 9 June 2006, 1:48:52; Exhibit RC0358 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 9 June 2006, 158, VPL.0005.0097.0536 @.0693.

MR GREEN: Mm.

MS GOBBO: - - - Dale's not gunna write it down, he's not gunna give evidence about it – he's okay. But what about the other seven people with him? What if Bickley's alone with them and starts talking to them? That's very, very worrying.

MR GREEN: That's very unlikely, but - - -

MR SANDY WHITE: Don't worry about that. Dale will be

MR GREEN: Dale will be

MR SANDY WHITE: address.

MR GREEN: It won't be Steve Mansell of Paul Rowe roughing him up or - - -

MS GOBBO: No, it's just bullying.

MR GREEN: Bullying him.

MS GOBBO: They wouldn't rough him up.

MR GREEN: No, no, but you know what I mean. Verbally.

MR SANDY WHITE: That's not gunna come out, that's - Flynny will control that.

MS GOBBO: O.K.

MR SANDY WHITE: But the other - - -

MS GOBBO: Then I have - then it has a disadvantage in that - do I really wanna be associated with yet another person who's talked to the police?

MR SANDY WHITE: Mm, mm. The answer to that's no.

And further:¹⁹⁹⁹

MS GOBBO: Mm. It doesn't matter. [Cooper] is in a different category 'cause he won't burn me.

MR SANDY WHITE: Mm.

MS GOBBO: He wouldn't - he - I - I know - - -

MR SANDY WHITE: Well, would [Mr Bickley]? If - if you would say to [Mr Bickley], "Look, you - you - this is make your own decisions." Well, [Mr Bickley] could never burn you then. But if you were to say, "Look, you know - - -"

MS GOBBO: I don't believe [Mr Bickley] would burn me, I don't actually believe that he would burn me

¹⁹⁹⁹ Exhibit RC0358 Audio of meeting between Nicola Gobbo, Sandy White and Peter Smith, 9 June 2006, after 2:04; Exhibit RC0358 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 9 June 2006, 182, VPL.0005.0097.0536 @.0717.

about the phone either. I believe he - if he was talking to police, he'd bullshit about that.

MR SANDY WHITE: Yep.

MS GOBBO: He - he - for some reason - - -

MR GREEN: Really, all - all he has to say is, "[Mr Cooper] gave me a phone number to contact him on."

Ms Gobbo discussed with the SDU what the police aim was with Mr Bickley, and what advice she would give him [REDACTED] to assist police:²⁰⁰⁰

MS GOBBO: Hang on, why does he need - why does he need to speak to anyone else? What's the ultimate aim with him anyway?

MR GREEN: Well, the - - -

MR SANDY WHITE: The ultimate aim is - is to get him to roll over basically.

MS GOBBO: Yeah.

MR SANDY WHITE: Yeah.

MR GREEN: And - - -

MS GOBBO: I gathered that.

MR GREEN: And maybe assist, the same way as [Mr Cooper], ideally. Like, that would be the - the most - - -

MS GOBBO: Yep.

MR GREEN: - - - we would want.

MS GOBBO: Well, what is wrong with me explaining to him on the phone, "You realise that you're unlikely" - I mean, what's wrong with me saying to him, "Look, you realise that you're unlikely to get bail again unless you assist the police?"

MR SANDY WHITE: We - we think there's a lot things you said the last week

MS GOBBO: Yeah.

MR SANDY WHITE: He's got all the reasons in the world to wanna come aboard.

MS GOBBO: Of course he does.

MR SANDY WHITE: Now, the concern we have is, him making contact with you and how we keep that quiet.

MS GOBBO: Make it in the middle of the night.

²⁰⁰⁰ Exhibit RC0358 Audio of meeting between Nicola Gobbo, Sandy White and Peter Smith, 9 June 2006, 1:56:45; Exhibit RC0358 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 9 June 2006, 168, VPL.0005.0097.0536 @.0703.

MR SANDY WHITE: *Mm. Well, what about during the day when you're in court?*

MR GREEN: *But even if it's in the middle of the night, you're still - you're still told about it. What can you say later if asked, "Why didn't you tell us about him?"*

MS GOBBO: *But who's gunna ask me?*

MR SANDY WHITE: *Well, we could have the same discussion about [Mr Cooper] though, couldn't we?*

MS GOBBO: *[Mr Cooper]? No, no, no, nuh. [Mr Cooper] is an entirely different situation. They knew I was close to [Mr Cooper].*

MR SANDY WHITE: *Yep.*

MS GOBBO: *They knew I acted. They knew - and they would've - they - they believed that they had an entitlement to know. I'm very lucky that that fuck up in the Barbaro summary hasn't become a bigger issue than it - than I thought about it, I thought it was*

MR SANDY WHITE: *Mm, yeah.*

MS GOBBO: *I'm very lucky that that's just been kinda smoothed over and thank God Milad hasn't received a photocopy of it from Dan and - - -*

MR SANDY WHITE: *Yep.*

MS GOBBO: *Thank God no-one's kind of - they're not - they're too dumb or too otherwise occupied to sit down and work that out.*

MR SANDY WHITE: *Mm. They've got their own problems.*

MS GOBBO: *'Cause if they had, I'd be in more - much more - - -*

MR SANDY WHITE: *Mm.*

MS GOBBO: *- - - difficulties. And [Bickley's] a different person.*

MR SANDY WHITE: *So - - -*

MS GOBBO: *I mean, how do I know - - -*

MR SANDY WHITE: *So Bickley - - -*

MS GOBBO: *How do I - - -*

MR SANDY WHITE: *- - - rings you, and he says - - -*

MS GOBBO: *Yep.*

MR SANDY WHITE: *- - - "I've just been arrested."*

MS GOBBO: *Yep.*

MR SANDY WHITE: *"Can you come and help me?"*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *What would you do?*

MS GOBBO: *Well, I don't - why do I need to come there? I mean, [Mr Cooper] was a different situation, Milad was a different situation. Why do I need to come there if [Bickley] pinched?*

MR SANDY WHITE: *He's gunna get interviewed - - -*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *- - - about - - -*

MR GREEN: *Well, you could - - -*

MR SANDY WHITE: *- - - commercial trafficking - - -*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *- - - so he'll want some legal advice about – that before he gets interviewed.*

MS GOBBO: *Yeah. And why can't I speak to him on the phone?*

MR GREEN: *Well, you probably can.*

MR SANDY WHITE: *Mm, yeah.*

MS GOBBO: *Yeah. And say - and then what I would say to him would be what I would say to anyone in this position, leaving my own personal agenda out of the way and the hiding of the fact of the phone exchange business - - -*

MR SANDY WHITE: *Yep.*

MS GOBBO: *- - - I would explain to him like I would say to anyone else. Look, you're already on bail. You are unlikely to get bail, or if you do it'll be 10 months from now. Think about your business.*

MR SANDY WHITE: *Mm.*

MS GOBBO: *And, like, I'm - - -*

MR GREEN: *..... What means more to you?*

MS GOBBO: *- - - more - I'm the best person to say to him - - -*

MR GREEN: *Yeah. What means more to you?.....*

MS GOBBO: *- - - "[Mr Bickley], you've asked me if they're gunna provide any money for you, you've asked me if they're gunna support you, and I've told you they're not. I mean, I'm the best person to give him that advice.*

MR SANDY WHITE: *So then you hang up the phone.*

MS GOBBO: Yeah.

MR SANDY WHITE: He then makes his decision.

MS GOBBO: What he does is beyond me.

1611. Mr Rowe told the Commission he could not recall the issue in relation to Ms Gobbo having passed on the phone, although it did not surprise him that she would have assisted people in that regard.²⁰⁰¹

13 June 2006 – Bickley ‘Rolls’

1612. On 13 June 2006, Mr Sandy White and Mr Richards met with Messrs O’Brien and Ryan. They discussed a number of issues relating to Ms Gobbo, including Mr Bickley, who was to be arrested that day for conspiracy to traffick in a large commercial quantity of MDMA. Later that day Mr Sandy White was informed by Mr Green that Mr Bickley was in custody.²⁰⁰²
1613. Mr O’Brien was asked whether, given his concerns about Ms Gobbo’s representation of Mr Cooper and his discussion with Mr Sandy White about that matter, whether he had discussed the issue of Ms Gobbo representing Mr Bickley with Mr Sandy White. He told the Commission that he did not recall having any such conversation.²⁰⁰³
1614. It is submitted that based upon what occurred before, and then following Mr Bickley’s arrest there was clearly an acceptance by the SDU and investigators that Ms Gobbo would represent Mr Bickley following his arrest, as she had Mr Cooper.
1615. Immediately upon his arrest by Mr Rowe, when he was given his caution and rights, including the right to legal representation, Mr Bickley requested to speak with Ms Gobbo. He was permitted to ring her on his mobile phone.
1616. On 6 May 2020, Victoria Police produced to the Commission, amongst other material, audio recordings of telephone intercepts obtained from warrants which had been obtained using information provided by Ms Gobbo. One of those audio recordings was this call from Mr Bickley to Ms Gobbo in which he informed her of his arrest.²⁰⁰⁴ As can be seen from the transcript below, almost without thinking Ms Gobbo asked Mr Bickley what his arrest had been based upon. Mr Bickley relayed the question to Mr Rowe who hesitated. The phone was passed so Ms Gobbo could speak to Mr Rowe about the matter. The subject was quickly passed over. It is submitted that the evidence demonstrates that both knew very well what Mr Bickley’s arrest was based upon.
1617. Further into the conversation, Ms Gobbo referred to her intention to speak to Mr Bickley ‘at length about it’ once she understood what it was all about. Then when Mr Bickley indicated that he ‘absolutely’ wanted Ms Gobbo to attend at the station to advise him, Ms Gobbo requested she speak to Mr

²⁰⁰¹ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9214 – 9215, TRN.2019.11.13.01.

²⁰⁰² Exhibit RC0292 Mr Sandy White diary, 13 June 2006, 116 VPL.0100.0096.0157 @.0272; Exhibit RC0933 James (Jim) O’Brien diary, 13 July 2006, 162, VPL.0100.0073.0076_R1S @.0293;

Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9258, TRN.2019.11.13.01.

²⁰⁰³ Transcript of Mr James (Jim) O’Brien, 9 September 2019, 5858 – 5859, TRN.2019.09.09.01.

²⁰⁰⁴ Exhibit RC1544D Transcript of telephone intercept conversation between Nicola Gobbo, Bickley and Paul Rowe, 13 June 2006, VPL.0098.0066.0306.

Rowe in order to arrange it. She then spoke to Mr Rowe about trying to avoid coming to the station, in accordance with the plan devised with the SDU in the week before. Contrary to the clear wishes of Mr Bickley, who was facing a charge that carried life imprisonment, Ms Gobbo made no attempt to attend the station.

1618. It is submitted that the audio file demonstrates Ms Gobbo playing the no-nonsense confident barrister with Mr Bickley, feigning a healthy disrespect for the police, referring to Mr Rowe as 'that copper'. It is submitted that this can be contrasted with the personal, somewhat coquettish tone Ms Gobbo took with Mr Rowe, who was clearly aware of her loyalties. It is submitted that Mr Rowe, who was being observed by Mr Bickley had to maintain the façade of policeman speaking with an independent lawyer who was not part of a conspiracy to have her client implicated in criminal activity and arrested. It is submitted that the discussion between Mr Rowe and Ms Gobbo was a ruse.²⁰⁰⁵

1619. The conversation between the three proceeded as follows:

MS GOBBO: Hello, Nicola speaking.

MR BICKLEY: Nicola, it's [Bickley]. How are you going?

MS GOBBO: Good. How are you going?

MR BICKLEY: Police have just picked me up apparently on some sort of ch- uh, what was the charge?

MR ROWE: Conspiracy to traffick large commercial quantity.

MR BICKLEY: C-conspiracy to traffick large commercial quantity.

MS GOBBO: Right. Based upon -

MR BICKLEY: I'm in a – I'm in a – based upon what, sorry?

MR ROWE: Based upon what?

MR BICKLEY: Yep.

MR ROWE: Well –

MS GOBBO: What –

MR ROWE: (INAUDIBLE)

MR BICKLEY: Do you want to speak to Nicola?

MR ROWE: Yep.

MR BICKLEY: Just one moment here, Nicola.

MS GOBBO: Okay.

MR ROWE: Paul Rowe speaking.

MS GOBBO: Hi, Paul. How are you going?

²⁰⁰⁵ Exhibit RC1544B Audio of telephone intercept conversation between Nicola Gobbo, Bickley and Paul Rowe, 13 June 2006, VPL.0098.0066.0306.

MR ROWE: Good, how are you?

MS GOBBO: Not too bad.

MR ROWE: (INAUDIBLE)

MS GOBBO: Um, are you on the way back to St Kilda Road?

MR ROWE: We are, yes. We'll be there –

MS GOBBO: (INAUDIBLE)

MR ROWE: In, um, probably five minutes.

MS GOBBO: Oh, okay. Um, can I ring back and speak to him on a landline?

MR ROWE: Uh, yes, um, uh, yep. Maybe I'll – 'cause I'm just not sure – not sure what extension we'll be on. I'll um –

MS GOBBO: Do you wanna ring me back in my office?

MR ROWE: Yeah. I'll get him to ring you back from a landline.

MS GOBBO: Okay. Do you wanna –

MR ROWE: All right.

MS GOBBO: - stick him back on for a second?

MR ROWE: Okay.

MS GOBBO: Thanks.

MR BICKLEY: Nicola?

MS GOBBO: Hi. I've just said to h- um, that copper –

MR BICKLEY: Yeah.

MS GOBBO: To ring me back so I can speak to you on a landline not on, um, your phone.

MR BICKLEY: Yeah, okay.

MS GOBBO: Is that all right?

MR BICKLEY: Yep.

MS GOBBO: 'Cause I wanna hear what this is about before, um, before speaking to you at length about it.

MR BICKLEY: Yeah, all right.

MS GOBBO: Okay?

MR BICKLEY: Yeah. When will I see you?

MS GOBBO: Pardon?

MR BICKLEY: When will I see you?

MS GOBBO: Do you want me to come down there?

discussion, where he was advised of the process to be adopted.²⁰¹² At some point in all of this, Mr Bickley had agreed to assist police. He was not charged with further offences arising out of Operation Posse, which meant there would be no complications arising from the need to make a bail application to the court for a second set of serious drug offending.

1624. That night, Mr Bickley signed a short statement which referred to his arrest, some detail about other persons involved in drug trafficking offending including Tony Mokbel, Mr Radi and others, and his intention to make a more detailed statement at a future time.²⁰¹³ Further detailed statements were subsequently taken from Mr Bickley.²⁰¹⁴

June 2006 – Gobbo Continues to Act for Bickley

1625. On 14 June 2006, Ms Gobbo reported to the SDU a visit she had made to Mr Bickley, including that he wanted his bail reporting conditions reduced to one day per week.²⁰¹⁵
1626. On 20 June 2006, Ms Gobbo appeared for Mr Bickley at a bail variation hearing.²⁰¹⁶ According to Ms Gobbo's fee book, she charged Mr Bickley for that appearance.²⁰¹⁷ Ms Gobbo reported to the SDU on the bail application, that she believed Mr Bickley would do 'absolutely anything to help himself', and that she had advised him 'to be full and frank about everything'.²⁰¹⁸
1627. On 26 June 2006, Ms Gobbo told her handler that Mr Bickley was 'reluctant to plead guilty' to the Operation Quills charges as he had never been involved in criminal proceedings before, but that she believed his attitude would change in time.²⁰¹⁹ Mr Bickley had a committal hearing listed on 12 August 2006,²⁰²⁰ although it appears this was adjourned until 2007.

Thomas 'Rolls'

June 2006 – Thomas Decides to Co-Operate

1628. On 16 June 2006, Mr Thomas indicated he would plead guilty. On 22 June 2006 he spoke with Mr Bateson and a colleague and confirmed he would sign statements. When discussing which lawyer he would deal with, Mr Bateson had again vouched for Ms Gobbo's honesty. On 29 June 2006, Ms Gobbo appeared for Mr Thomas when he was arraigned for the murder before Justice Eames. When Mr Bateson, Mr Valos and Ms Gobbo attended on Mr Thomas in the cells after the hearing he indicated that Carl Williams and Milad Mokbel were of the belief that Ms Gobbo was working

²⁰¹² Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 June 2006, 162, VPL.0100.0073.0076_R1S @.0293

²⁰¹³ Exhibit RC0746 Statement of Mr Bickley, 13 June 2006, VPL.0200.0002.0390.

²⁰¹⁴ Exhibit RC0747 Statement of Mr Bickley, 20 July 2006, VPL.0200.0002.0393.

²⁰¹⁵ Exhibit RC0281 ICR3838 (035), 14 June 2006, 329, VPL.2000.0003.1915; Exhibit RC0567 Mr Green diary, 14 June 2006, 189, RCMPI.0086.0001.0001 @.0189.

²⁰¹⁶ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 20 June 2006, 59, OPP.0001.0004.0025 @.0083.

²⁰¹⁷ Exhibit RC1568 Ms Nicola Gobbo fee book 01, 23 June 2006, 97, MIN.5000.7000.0001 @.0097.

²⁰¹⁸ Exhibit RC0281 ICR3838 (036), 20 June 2006, 336, VPL.2000.0003.1922.

²⁰¹⁹ Exhibit RC0281 ICR3838 (036), 26 June 2006, 343, VPL.2000.0003.1929.

²⁰²⁰ Exhibit RC0281 ICR3838 (038), 12 July 2006, 357, VPL.2000.0003.1943.

with the police and she needed to be careful. Mr Bateson informed Mr Ryan of the possible threat to Ms Gobbo.²⁰²¹

Gobbo Concern over Disclosure of Her Role Advising Thomas

1629. The following day, Ms Gobbo went on an overseas holiday.²⁰²² During that period Ms Gobbo continued to follow events. It is apparent that she was following events. She had discussion with handlers over what could be done to ensure others would not become aware of her involvement in Mr Thomas' co-operation with police.²⁰²³

Gobbo Involvement in Thomas Statement Process

1630. Over a number of weeks from 6 July 2006, Mr Bateson was involved in co-ordinating the statement taking process in relation to Mr Thomas. Mr Thomas was taken to a secure location, and various investigators dealing with the matters the subject of each statement were brought to Mr Thomas to take a statement.

1631. On 11 July 2006, Ms Gobbo spoke with Mr Bateson who expressed concern that Mr Thomas was 'not *being totally truthful re murder matters*'. Repeating the process that had occurred with Mr McGrath in 2004, and more recently with Mr Cooper (on 14 May 2006) arrangements were made for Ms Gobbo to speak with Mr Thomas on the morning of 13 July 2006. After meeting with Mr Thomas for around 90 minutes, Ms Gobbo reported to the SDU that Mr Thomas was '*up to 80% truth now*', although he had been dishonest about the murder of [REDACTED]. On 15 July 2006, Ms Gobbo reported having spoken with Mr Bateson, and that the Purana Taskforce were now happy with Mr Thomas.²⁰²⁴

1632. Then on the night of 18 July 2006, Ms Gobbo attended at the St Kilda Road Police Station to read Mr Thomas' statements. This appears to have occurred without the knowledge of Mr Thomas or his solicitor. The Commission received evidence suggesting that Ms Gobbo marked up those statements in red pen, and in respect of at least one of them provided comments as to the accuracy of the contents which were later followed up by investigators.

1633. It is submitted that, as had also occurred in court proceedings relating to Mr McGrath and Mr Cooper, Ms Gobbo's involvement in the statement process was thereafter deliberately concealed not just from the prosecution and the defence, but also from the court.

1634. These matters are referred to in Chapter 7.

²⁰²¹ Exhibit RC1740 Memorandum from Ms Nicola Gobbo to Mr Duncan Allen, 12 August 2006, 9, MIN.5000.0002.4494, @.4502; Exhibit RC1568 Ms Nicola Gobbo fee book, 21 September 2006, 99, MIN.5000.7000.0001 @.0099; Exhibit RC0272 Commander Stuart Bateson diary, 29 June 2006, 131, VPL.0005.0058.0233 @.0363.

²⁰²² Exhibit RC0281 ICR3838 (037), 30 June 2006, 349, VPL.2000.0003.1935; Exhibit RC0272 Commander Stuart Bateson diary, 30 June 2006, 132, VPL.0005.0058.0233 @.0364.

²⁰²³ Exhibit RC0281 ICR3838 (037), 4 July 2006, 350, VPL.2000.0003.1936.

²⁰²⁴ Exhibit RC0281 ICR3838 (038), 15 July 2006, 359, VPL.2000.0003.1945.

Awareness that the Use of Gobbo was Affecting Cases

12 July 2006 – The Clever Barrister and the Amazing Test Case

1635. On 12 July 2006, Ms Gobbo met with Messrs Peter Smith and Anderson. She confirmed that she was still acting for Mr Bickley and asked whether the 'phone situation' had ever been raised with him. She was told it had not. There was further discussion about a 'complicating factor' in Mr Bickley's court case, [REDACTED]. This led to discussion about legal professional privilege. Ms Gobbo made clear to Messrs Peter Smith and Anderson that for some time she had not been respecting her obligations to maintain such privilege in her communications with them. There was then contemplation of a scenario where a 'clever barrister' worked out what she had been doing, and the 'amazing test case' that would ensue, followed by a discussion as to what each might say if they were called to give evidence, the need to prevent that from occurring in the first place, and whether subpoenas might require disclosure of her role:²⁰²⁵

MS GOBBO: By the way, I - have you ever brought up the phone situation?

MR PETER SMITH: No.

MS GOBBO: Thank God for that.

MR PETER SMITH: You're still acting for him?

MS GOBBO: Mm'hm.

MR PETER SMITH: When - when are you going to catch up on what's happened with the other people and what have you?

MS GOBBO: Tomorrow.

MR PETER SMITH: [REDACTED]

MS GOBBO:

MR PETER SMITH: But wouldn't you have a discussion with him about the court case in the daytime though? Like, I've forgotten what you know about - -

MS GOBBO: [REDACTED]

MR PETER SMITH: But there is - but there is always a common factor.

MS GOBBO: Which is what?

²⁰²⁵ Exhibit RC0282 Audio of meeting between Nicola Gobbo, Anderson and Peter Smith, 12 July 2006, 5:17:08, VPL.2000.0002.4233; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Peter Smith, 12 July 2006, 339, VPL.0005.0111.0183 @.0521.

MR PETER SMITH: **You.**

MS GOBBO: *Yeah, I know. Obviously I'm talking to you about it. For your information [Mr Anderson] **we are long ago past the point of privilege.***

MR ANDERSON: *Yeah.*

MS GOBBO: **Legal professional privilege between the crooks and me just went out the window.**

MR ANDERSON:

MR PETER SMITH: *Yep.*

MS GOBBO: *Became too hard for me not - not saying I can tell you this, but I can't tell you this, can tell you this, can't tell you this.*

MR PETER SMITH: *Yep.*

MS GOBBO: *Which is why - - -*

MR PETER SMITH: *O.K. Well, that - yeah, that's - - -*

MS GOBBO: *Which is - hang on, this is some other reason why I do speculate and worry from time to time paranoia, I think, **"God, if some clever barrister worked this out, what a field day they'd have."** This would be an amazing test case.*

MR ANDERSON: *Yeah, anything that develops from ---*

MS GOBBO: *Yep.*

MR ANDERSON: *--- from this moment on yeah.*

MS GOBBO: **Well, from anything I've ever told you - - -**

MR ANDERSON: *Yeah.*

MS GOBBO: **- - - it's all privileged.**

MR PETER SMITH: *Mm.*

MS GOBBO: **It'd be a magnificent argument, be a very interesting - - -**

MR ANDERSON: *Be effective.*

MS GOBBO: *Contemplated*

MR PETER SMITH: *I told you my thoughts though, didn't I?*

MS GOBBO: *What? Oh, yeah, I know, but that - yeah, that's right. What are you talking about?*

MR PETER SMITH: *No, no, it's slightly different than that. If - if they - if they know we exist and suspect we've been talking to you, well, half of that is lost anyway, isn't it?*

MS GOBBO: Yes.

MR PETER SMITH: *But from our point of view - - -*

MS GOBBO: *But the*

MR PETER SMITH: *O.K., O.K. What are they going to do, call me?*

MS GOBBO: *Yeah, but they've gotta know you exist first.*

MR PETER SMITH: *That's right. But if they get that, things are looking ordinary.*

MS GOBBO: *Mm.*

MR PETER SMITH: *But anyway, if they get to me or us and I go - walk in a courtroom, what am I going to say?*

MS GOBBO: *Kill me.*

MR PETER SMITH: *I'm gunna say "nuh".*

MS GOBBO: *Same as what I'm gunna to say. If I'm dragged to any - any organisation - - -*

MR PETER SMITH: *That's right.*

MS GOBBO: *- - - that has coercive powers, I ain't talking. Charge me, see ya.*

MR PETER SMITH: *But if they get to that stage, they probably think they know it - they think they'd know what's going on if they're getting to that point.*

MS GOBBO: *Oh, absolutely.*

MR PETER SMITH: *Yeah. But they're not gunna hear that in my mouth.*

MS GOBBO: *No.*

MR PETER SMITH: *Or our - our mouth then.*

MS GOBBO: *I'm - the only - - -*

MR PETER SMITH: *The idea is to - to stop it well before then, not to get to that - - -*

MS GOBBO: *I'm not suggesting for one minute anyone ever would. I can't see that happening 'cause I have - I have not said anything to anyone at all. But say somebody serves the Chief Commissioner with a very - one of my old subpoenas which are worded in such a way that an inquiry would be made with wherever, whatever office, that would be a problem.*

MR ANDERSON: *But you'd have to be on the - pretty much on the money though to know that that relationship existed, wouldn't you?*

MS GOBBO: *No. It wouldn't be - it wouldn't be calling - - -*

- MR PETER SMITH: That - - -*
- MR ANDERSON: informer police relationship - - -*
- MS GOBBO: Yeah, but the subpoena would say, "Any informer Registered unregistered - -"*
- MR ANDERSON: "Where we're going to go to town and fight that,'cause that won't get off the ground there.*
- MS GOBBO: Exactly, you won't get it - - -*
- MR ANDERSON: Won't - - -*
- MS GOBBO: - - - because I won't draft it in the first place.*
- MR ANDERSON: Yeah.*
- MS GOBBO: I am sorry to say I am responsible for some very nasty subpoenas.*
- MR ANDERSON: It's your job though.*

1636. On 1 November 2006, Ms Gobbo reported having been to a movie the previous night at the Italian Film Festival with Mr Bickley. Ms Gobbo later reported to her handler, Mr Green, that the plot had involved a police informer who turned on his handler and killed him.²⁰²⁶

24 July 2006 – SDU Talk of a Royal Commission

1637. The following matters are dealt with in detail in Chapter 12 which deals with Operation Khadi. They are identified briefly at this point of the submissions in order that it can be understood that during this period serious issues were being discussed about the consequences of the use of Ms Gobbo within Victoria Police.
1638. In July 2006, a joint operation was being conducted between ESD and the OPI known as Operation Khadi. The matter related to investigations involving a number of members from the Brighton Police Station, one of whom Ms Gobbo was friendly with, and the other who had arrested her client, Azzam Ahmed, with whom she was close.
1639. Investigators in Operation Khadi had planned to summon Ms Gobbo to the OPI. When Mr Overland, Mr Biggin and the SDU were made aware, concerns were raised that Ms Gobbo may be required to answer questions that would have the effect of exposing her status as a human source. Steps were taken by the SDU and others in Victoria Police to try and avoid this by having ESD investigators speak with Ms Gobbo directly.
1640. Separately, between January and August 2006, the OPI had been conducting inquiries in relation to the unauthorised disclosure of information related to the Hodson murders. These inquiries were being conducted at the direction of the OPI Assistant Director, Graham Ashton, and included looking at Ms Gobbo's possible involvement in that unauthorised disclosure. Attempts were being made to establish a possible link of a 'non-professional'

²⁰²⁶ Exhibit RC0281 ICR3838 (051), 1 November 2006, 535, VPL.2000.003.2121; Exhibit RC0281 ICR3838 (057), 12 November 2006, 584, VPL.2000.003.2170.

nature between Ms Gobbo and Mr Dale, including an intimate relationship, and telephone records were obtained indicating a link between Ms Gobbo and Messrs Dale and Argall.²⁰²⁷

1641. On 24 July 2006, ESD investigators, Inspector Phil Swindells (formerly of the Purana Taskforce) and Inspector Lindsay Attrill, spoke with Ms Gobbo about matters related to the Operation Khadi investigation. It became apparent to her that they had information which she had earlier provided to the SDU. This was information she had learned from her client, Azzam Ahmed. Ms Gobbo told the investigators that what she was speaking to them about was privileged information and referred to 'throwing privilege out the door'.²⁰²⁸
1642. After the meeting Ms Gobbo rang her handler, Mr Peter Smith, who was at that time in an SDU unit meeting which was attended by all members.²⁰²⁹ That meeting had included discussion, amongst other matters, of Carl Williams believing Ms Gobbo was responsible for Mr Cooper, Mr Thomas and Mr McGrath 'rolling', and rumours of her being a 'dog'.²⁰³⁰
1643. It appears that Mr Peter Smith stepped away from the meeting and had a conversation with Ms Gobbo. She told him she was very upset following the meeting with the ESD investigators, conveying to Mr Peter Smith what had occurred, including that she had been told she still might be called to an OPI hearing about the matter. Ms Gobbo was told that Messrs Sandy White and Green were trying to head off an OPI hearing.²⁰³¹
1644. Mr Black took diary notes of the meeting. Towards the end of the entry he made a note which indicated serious concern in relation to the SDU's use of Ms Gobbo, and what might occur if they continued to use her.²⁰³²

Future 3838? v Royal Commission?

1645. The evidence before the Commission indicates that the SDU was open and frank in their discussion of issues at their regular unit meetings.²⁰³³

1646. On the evidence, it is open to the Commissioner to find that by 24 July 2006, given Mr Black's notes of the meeting, all of the members of the SDU who attended the SDU meeting on that date knew that Victoria Police's use and management of Ms Gobbo as a human source represented serious impropriety of sufficient scale and severity to warrant the establishment of a Royal Commission.

²⁰²⁷ Exhibit RC0860 OPI Examiner's briefing paper, 8 August 2006, 13, IBAC.0010.0001.2496 @.0013.

²⁰²⁸ Exhibit RC0253 Summary of meeting between Ms Nicola Gobbo, Mr Philip Swindells and Mr Lindsay Attrill, 24 July 2006, 5, VPL.2000.0002.0011 @.0015.

²⁰²⁹ Exhibit RC0281 ICR3838 (039), 24 July 2006, 366-367, VPL.2000.003.1952-1953; Exhibit RC0284 SML3838, 24 July 2006, 41-42, VPL.0005.0099.0001 @.0041-.0042; Exhibit RC0292 Mr Sandy White diary, 24 July 2006, 5, 10, VPL.0100.0096.0311; RC0591 Mr Black diary, 24 July 2006, 2, RCMP1.0098.0001.0001 @.0002.

²⁰³⁰ Exhibit RC0292 Mr Sandy White diary, 24 July 2006, 10, VPL.0100.0096.0311.

²⁰³¹ Exhibit RC0281 ICR3838 (039), 24 July 2006, 366-367, VPL.2000.003.1952-1953.

²⁰³² RC0591 Mr Black diary, 24 July 2006, 2, RCMP1.0098.0001.0001 @.0002.

²⁰³³ Exhibit RC0622A Statement of Mr Black, 5 June 2019, 21-22, COM.0025.0005.0001 @.0021-.0022.

1647. It is submitted that this note reflects a concern which was raised again on 5 December 2008 when consideration was being given to the consequences of Ms Gobbo becoming a witness, and the possible exposure of her role as a human source in subsequent court processes.
1648. The Monthly Source Review completed later that day by Mr Sandy White indicated that Ms Gobbo continued to be an effective source of high level intelligence, that she was under suspicion of assisting police, and that SDU management remained essential.²⁰³⁴ It did not mention the risk of a Royal Commission or inquiry due to her use as a human source.
1649. On 28 July 2006, Ms Gobbo met with Messrs Sandy White and Peter Smith and relevant concerns were discussed. The transcript reveals the following further discussion about Ms Gobbo's reaction to investigators having been told she was the source of information provided to the SDU:

MS GOBBO: But, Sandy White, if I'm gunna - I - and repeatedly I've chucked ethics out the window, I've chucked legal professional privilege out the window, I've chucked my career out the window if any of this ever came out. Forget about - I wouldn't even be covered by insurance. I would be so fucked it's not funny, and I can't tell you those things if you're gunna pass it on that specifically. You can't do it, not that amount, not the - not the specific of it or you can, but not to idiots.

MR SANDY WHITE: Well I didn't pass it on to I can guarantee you that.

MS GOBBO: O.K. Well, then - - -

MR SANDY WHITE: And - and it's very hard to pass on certain information - - -

MR PETER SMITH: That's the trouble.

MR SANDY WHITE: - - - and - and be too vague about it. A \$20,000 theft by a policeman is - there's people within our organisation at quite a high level that expect to know that. And at the time, I was thinking, "Well, you're gunna talk to Phil about this, so I don't see any harm in this."²⁰³⁵

²⁰³⁴ Exhibit RC0284 SML3838, 24 July 2006, 42, VPL.0005.0099.0042.

²⁰³⁵ Exhibit RC0282 Transcript of conversation between Nicola Gobbo, Sandy White and Peter Smith, 28 July 2006, 81, VPL.0005.0104.0440 @.0520; Exhibit RC0282 Audio of conversation between Nicola Gobbo, Sandy White and Peter Smith, 28 July 2006, VPL.2000.0002.4234.

Issues Arising in Milad Mokbel Case

Late July 2006 – Disclosure Concern in Milad Mokbel Case

1650. On 24 July 2006, Mr O'Brien returned to the Purana Taskforce, having been on leave or taking a course since mid-June 2006.
1651. In the afternoon of 25 July 2006, Mr O'Brien met with the SDU where there was an update as to human sources, discussion of the Purana Taskforce plan and future tasking and strategies. Mr O'Brien noted he was to be the single point of contact in relation to information supplied by the SDU.²⁰³⁶
1652. Following this meeting, Mr O'Brien received information from Mr Peter Smith which had been sourced from Ms Gobbo, including that Milad Mokbel was planning to make an application for bail on 8 August 2006, and that he would be issuing subpoenas '*re all witnesses + informers*'.²⁰³⁷ Early on the morning of 26 July 2006, Mr O'Brien made arrangements for the briefing of lawyers in relation to PII issues.²⁰³⁸

Late July 2006 – Opportunity to Use Gobbo with Milad Mokbel

1653. On 26 July 2006, Mr Buick sent an email to Mr O'Brien in relation to Milad Mokbel. Amongst other matters, Mr Buick indicated that he had received information that Milad wanted to be moved away from Carl Williams, and said:²⁰³⁹

I tell you all this (because you are the boss) but also because I don't want to miss the opportunity to exploit Milad's vulnerability.

Could the DSU be advised of the above situation so that their source (who I don't know of course) is alert to pick up on an opportunity re Milad.

1654. It is submitted that in this email, Mr Buick was indicating with sarcasm that he did not know the SDU's source, when he actually did, having used this joke previously with Mr Peter Smith shortly after the arrest of Mr Cooper.²⁰⁴⁰ In that previous email, Mr Peter Smith had indicated to Mr Sandy White that Mr Buick was obviously being sarcastic by saying he did not know who the source was.
1655. Mr O'Brien forwarded the email to Mr Sandy White saying, '*Mr Sandy White for information re 3838 handling*'. Mr Sandy White sent it to Mr Peter Smith, '*FYI*'.

²⁰³⁶ Exhibit RC0933 Mr James (Jim) O'Brien diary, 25 July 2006, 167, VPL.0100.0073.0076_R1S @.0294; Exhibit RC0292 Mr Sandy White diary, 25 July 2006, 13, VPL.0100.0096.0311.

²⁰³⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 25 July 2006, 168, VPL.0100.0073.0076_R1S @.0295.

²⁰³⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 26 July 2006, 169, VPL.0100.0073.0076_R1S @.0296.

²⁰³⁹ Exhibit RC1674 Email from Boris Buick to James (Jim) O'Brien sent to Sandy White and Peter Smith, 26 July 2006, VPL.0099.0113.0567.

²⁰⁴⁰ Exhibit RC0648 Email from Boris Buick to Peter Smith sent to Sandy White, 2 May 2006, VPL.2000.0001.9699.

1656. On the evidence, it is open to the Commissioner to find that the 26 July 2006 email exchange²⁰⁴¹ between Mr O'Brien and Mr Sandy White demonstrates that they were not concerned to prevent Ms Gobbo's continued involvement with Milad Mokbel, in circumstances where they knew she had a conflict of interest, and she would likely be called upon to offer him professional advice.

Early August 2006 – PII Advice Being Sought for Milad Mokbel and Carl Williams Cases

1657. On 1 August 2006, Mr O'Brien, along with Detectives Rowe and Hatt, attended a meeting with the police solicitors. Mr Rowe, the informant in the case against Milad Mokbel, noted discussion of '*subpoena, LPP, PII re Op Posse*'. Mr Hatt was an investigator involved in the case against Mr Williams. Mr O'Brien noted that the solicitors were to brief counsel for 'PII issues' in relation to Mr Williams' pre-trial hearing on 7 August 2006 and Milad Mokbel's bail application on 8 August 2006.²⁰⁴²
1658. On 2 August 2006, Mr O'Brien spoke again with the police solicitors. He later had discussions with Purana Taskforce staff in relation to the forthcoming issues of PII.²⁰⁴³ Mr O'Brien could not recall what that discussion entailed, indicating it would likely have been in relation to the production of documents.²⁰⁴⁴
1659. On 3 August 2006, Mr O'Brien had further discussion with the police lawyers, as well as communications with the OPP, about PII issues. He also had another meeting with 'all staff' in which he raised matters including 'PII and trial issues'.²⁰⁴⁵ Following this Messrs O'Brien and Bateson met with Mr Peter Smith about 'DSU issues re 3838'.²⁰⁴⁶

8 August 2006 – Milad Mokbel Bail Application

1660. On 7 August 2006, Mr O'Brien and Mr Rowe met with Messrs Horgan and Tinney and Ms Anscombe at the OPP in advance of Milad Mokbel's bail application.²⁰⁴⁷
1661. On 8 August 2006, Messrs Flynn, Rowe, Hayes and Ms Angela Hantsis attended at the Melbourne Magistrates' Court for the bail application of Milad

²⁰⁴¹ Exhibit RC1674 Email from Boris Buick to James (Jim) O'Brien sent to Sandy White and Peter Smith, 26 July 2006, VPL.0099.0113.0567.

²⁰⁴² Exhibit RC0933 Mr James (Jim) O'Brien diary, 1 August 2006, 172-173, VPL.0100.0073.0076_R1S @.0298; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 1 August 2006, 22 RCMP.0065.0001.0001, @.0022.

²⁰⁴³ Exhibit RC0933 Mr James (Jim) O'Brien diary, 1 August 2006, 173

²⁰⁴⁴ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5696-5697, TRN.2019.09.05.01.

²⁰⁴⁵ Exhibit RC0933 Mr James (Jim) O'Brien diary, 3 August 2006, 174, VPL.0100.0073.0076_R1S @.0299.

²⁰⁴⁶ Exhibit RC0933 Mr James (Jim) O'Brien diary, 3 August 2006, 174-174, VPL.0100.0073.0076_R1S @.0299

²⁰⁴⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 7 August 2006, 176-177, VPL.0100.0073.0076_R1S @.301; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 7 August 2006, 23, RCMP.0065.0001.0001, @.0023.

Mokbel. Mr Tinney appeared on behalf of the police, Mr Richter appeared for Milad Mokbel.

1662. Mr Rowe was cross-examined at the bail application. He did not reveal to the court any concern as to the potential inadmissibility of evidence to be used against Milad Mokbel. Mr Rowe told the Commission he did not think he'd had that concern at the time, his view being that Ms Gobbo had pointed them in the direction, and they then obtained the evidence.²⁰⁴⁸
1663. Messrs O'Brien, Flynn and Rowe were all aware that Ms Gobbo had supplied the information which led to the arrest of Mr Cooper, that she had advised and represented Mr Cooper who agreed to give evidence against Milad Mokbel and that she had advised Milad Mokbel on the night of his arrest.

14 August 2006 – Further Consideration to Using Gobbo as a Lawyer against Milad Mokbel

1664. On 14 August 2006, Mr O'Brien spoke with Mr Sandy White about telephone intercepts which indicated that Milad Mokbel was considering pleading guilty. They discussed the possibility of setting a 'trap' to test whether Ms Gobbo was genuinely assisting the police.²⁰⁴⁹

Issues Arising in Carl Williams Case

August 2006 – Complaints by Carl Williams of Conflict of Interest

1665. In August 2006, Carl Williams' trial for the murder of Jason Moran was due to commence. Ms Gobbo was proposing to act for Mr Thomas in his forthcoming plea hearing.
1666. Upon becoming aware of Ms Gobbo's intentions, Carl Williams made complaints about Ms Gobbo having conflicts of interest to the Court, the Victorian Bar Ethics Committee, and the Law Institute. He cited her representation of himself (she had been involved in the preparation of his committal proceedings), and Messrs McGrath (see above) and Andrews (whom she had visited in custody following the murder of Mr Marshall) at various stages.
1667. On 7 August 2006, when Mr Williams' lawyer, Mr Peter Faris, indicated he would seek an injunction to prevent Ms Gobbo from acting for Mr Thomas she withdrew, telling her handlers and Mr Bateson that she would nevertheless continue advising him and preparing his plea in the background.²⁰⁵⁰
1668. It is submitted that the SDU and investigators effectively condoned Ms Gobbo's dishonest denial of those complaints.

²⁰⁴⁸ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9236-9237, TRN.2019.11.13.01.

²⁰⁴⁹ Exhibit RC0292 Mr Sandy White diary, 14 August 2006, 44, VPL.0100.0096.0311 @.0354.

²⁰⁵⁰ Exhibit RC0281 ICR3838 (040), 7 August 2006, 385, VPL.2000.0003.1971.

Using Williams Threat to Avoid Disclosure

1669. On 13 August 2006, Mr Green reported to Mr Sandy White that Ms Gobbo had obtained a copy of a letter in which Mr Williams had referred to her as a 'dog'. They discussed Mr Williams court case which was scheduled the following day, and the likelihood of his issuing subpoenas in order to determine Ms Gobbo's involvement in the matter. It was suggested that the letter might be useful to prevent any such disclosure. Mr Sandy White then spoke with Mr O'Brien who agreed.²⁰⁵¹
1670. By 15 August 2006, the Purana Taskforce had commenced an investigation into Carl Williams for making threats against Ms Gobbo, seizing his computer at the prison under warrant.²⁰⁵²

Mid-August 2006 – PII Issues in Williams Trial

1671. As referred to in more detail in Chapter 7, in mid-August legal argument was taking place in the Williams trial before Justice King. This involved claims of PII being made over relevant material in the possession of the police, including statements made by Messrs Thomas and Andrews in other matters. High level meetings were also being held at the OPP to discuss such matters, such as that on 15 August 2006 involving Mr Overland, Mr O'Brien, Mr Bateson, Ms Kerley, Mr Coghlan, Mr Horgan, Mr Tinney and Ms Anscombe.
1672. As was the case in relation to legal advice taken in respect of Milad Mokbel, neither the lawyers representing the police or the DPP, were told about Ms Gobbo's role. Mr O'Brien told the Commission, there was never any intention of such disclosure, as 'in the normal course of events you wouldn't disclose an informer'.²⁰⁵³
1673. It is submitted that this was not the normal course of events. Mr O'Brien and Mr Bateson were very experienced investigators. They both understood that informer privilege is never absolute²⁰⁵⁴, and it is submitted that they would have appreciated the relevance of Ms Gobbo's role. They had been involved in tasking her in her capacity as a human source in relation to Mr Thomas in order to get him to be 'more truthful'.
1674. Mr O'Brien said that, unless Mr Overland had arranged for the lawyers to be instructed independently of the Purana Taskforce, he was also aware that the police legal advisors were not being instructed as to the issues associated with police holdings of relevant material relating to Ms Gobbo.²⁰⁵⁵

1675. On the evidence, it is open to the Commissioner to find that the position adopted by Mr Overland, Mr O'Brien and Mr Bateson, in not seeking advice from their own lawyers, in not discussing their use of Ms Gobbo with the DPP, avoided scrutiny of their use of Ms Gobbo

²⁰⁵¹ Exhibit RC0292 Mr Sandy White diary, 13 August 2006, 43, VPL.0100.0096.0311 @.0353.

²⁰⁵² Exhibit RC0292 Mr Sandy White diary, 15 August 2006, 45, VPL.0100.0096.0311 @.0355

²⁰⁵³ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5708-5710, TRN.2019.09.05.01.

²⁰⁵⁴ As to Mr O'Brien, Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5490, 5548, 5709, 5712, TRN.2019.09.04.01; as to Mr Bateson, Transcript of Commander Stuart Bateson, 2 July 2019, 3445, 3413, 3373, 3374, 3420, TRN.2019.07.02.01; Exhibit RC0269d Supplementary Statement of Commander Stuart Bateson, 17 November 2019, 16 [55] VPL.0014.0027.0020 @.0016.

²⁰⁵⁵ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5709-5710, TRN.2019.09.05.01.

which would have occurred upon a claim for PII and had the effect of usurping the role of the Court and Victoria Police determining PII for itself.

1676. Mr O'Brien continued to have involvement and awareness of those matters in the months following, including briefings with lawyers, reading of court transcript, and updating Mr Overland as to 'Thomas PII issues re statements'.²⁰⁵⁶

September 2006 – Further Concerns over Williams Complaints

1677. Submissions concerning these issues are contained in Chapter 7.

November 2006 – First Plea Discussions with Williams

1678. In November 2006, Mr O'Brien attended the prison and spoke with Mr Williams.²⁰⁵⁷ In the weeks following this there were discussions as to the possibility of Mr Williams pleading guilty, during which Mr Williams raised the issue of his knowledge police involvement in the murder of the Hodsons.

1679. It is apparent that these discussions fell through, and in December 2006, Mr O'Brien was again attending a meeting with police lawyers in relation to PII issues associated with the statements of Messrs Thomas and Andrews.²⁰⁵⁸

Purana Success Given High Level Recognition

16 August 2006 – PowerPoint Presentation to the Chief Commissioner

1680. On 12 August 2006, Mr O'Brien was working on a presentation which was to be given to Chief Commissioner Nixon in relation to the Purana Taskforce.²⁰⁵⁹ On 14 August 2006, Mr O'Brien met with Messrs Overland, Grant and Whitmore in relation to that briefing.²⁰⁶⁰

1681. On 16 August 2006, Mr O'Brien consulted with Mr Sandy White in his preparation for the presentation, which they both attended along with Ms Nixon, and Messrs Overland, Biggin, Blayney, Whitmore, Hollowood, Grant, Allen and others.

1682. The Commission obtained from IBAC what it understands to be the presentation, it having at some point been provided either to that body or the OPI. It apparently no longer exists at Victoria Police.

1683. The briefing covered a number of topics including:

²⁰⁵⁶ Exhibit RC0933 Mr James (Jim) O'Brien diary, 18 August, 13 September, 19 September, 27 September 2006, 183, 207, 212, 216, VPL.0100.0073.0076_R1S @.0305, .0328, .0333.

²⁰⁵⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 15, 16, 20, 27, 28, 29, 30 November, 1, 7 December 2006, 240, 241, 243, 246, 247, 248, 249, 251, VPL.0100.0073.0076_R1S @.0352.

²⁰⁵⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 20 December 2006, 252.

²⁰⁵⁹ Exhibit RC0933 Mr James (Jim) O'Brien diary, 12 August 2006, 179, VPL.0100.0073.0076_R1S @.0302.

²⁰⁶⁰ Exhibit RC0933 Mr James (Jim) O'Brien diary, 12 August 2006, 179, VPL.0100.0073.0076_R1S @.0302.

- 1683.1. the origins of the Purana Taskforce
 - 1683.2. the mission objectives
 - 1683.3. an overview of investigations to November 2005
 - 1683.4. investigation direction post November 2005
 - 1683.5. investigative methodology
 - 1683.6. linkages between murders and organised crime supporting resource implications
 - 1683.7. criminal proceeds
 - 1683.8. opportunities and threats
 - 1683.9. future directions.
1684. Amongst other matters, the presentation referred to:
- 1684.1. milestones being the conviction and co-operation of a number of people including Messrs McGrath, Andrews, Thomas, Gregory, Cooper and another
 - 1684.2. the motives for most of the homicides being related to organised commercial drug trafficking
 - 1684.3. the gaining of evidence of the manipulation of court process to allow continuation of business
 - 1684.4. Operation Posse's targeting of Messrs Cooper, Bickley and others as a means to arrest the principle targets being members of the Mokbel family
 - 1684.5. the investigation having involved the use of human sources to locate a clandestine laboratory, sources of income and money laundering, and persons potentially corrupted by organised crime members
 - 1684.6. the use of a single point of contact in relation to registered human sources in order to 'limit PII issues'
 - 1684.7. the intelligence received by Operation Posse as at December 2005, then the various events leading to Cooper's arrest and rolling (involving the legal opinion of a 'QC' in relation to holding him in custody without charge), then Bickley's arrest and rolling
 - 1684.8. threats including 'Judicial process & public interest immunity issues'
 - 1684.9. opportunities including 'Increase Community, Government and judiciary confidence in Victoria Police'.
1685. The final slide of the presentation quoted:

If we fail to recognise the current escalating trend of domestic drug production and its links to organised crime then we stand condemned to repeat mistakes of the past and merely treat the horrific symptoms of a much greater problem we have chosen to ignore.

29 August 2006 – Presentation to the Premier

1686. On 29 August 2006, Mr O'Brien attended at Treasury Place with Ms Nixon and Mr Overland where they met with Premier Bracks and the Secretary of the Department of Premier and Cabinet, Mr Terry Moran, and provided an update on the Purana Taskforce investigations. Mr O'Brien recalled providing statistics demonstrating their achievements and discussing the need for legislative change.²⁰⁶¹
1687. Mr O'Brien noted in his evidence the recognition bestowed upon the Purana Taskforce at the highest level of government, including from the Premier and Leader of the Opposition.
1688. It will be recalled that at this time the success of Operation Posse and the recent 'rolling' of Mr Thomas (albeit in the circumstances of the secret use of Ms Gobbo described in these submissions) were being enjoyed by Victoria Police.
1689. The next audience was a personal visit by the Premier when Carl Williams entered a plea of guilty in February 2007.²⁰⁶²

Further Use of Ms Gobbo & Disclosure Issues

August 2006 – Concern about the OPP Looking at Mr Cooper's Transcript

1690. On 22 August 2006, Mr Sandy White was on leave, and Mr Black was acting controller. A meeting took place involving Messrs Biggin, Black, Fox and Green. There was discussion of the status of a number of human sources including Ms Gobbo. Mr Black noted that there was discussion about the OPP wanting transcripts from the night of the arrest of Mr Cooper. There was concern as the third tape of the interview included Mr Cooper detailing some of his conversation with Ms Gobbo. There was a question of whether the OPP would read transcripts, and a noting of the need to schedule a meeting with Messrs O'Brien and Flynn to discuss the police response, with the SDU's position being that they should not release the tapes.²⁰⁶³
1691. In the days thereafter, Mr Green reported to Mr Black that he had visited Purana to discuss the issue as to the release of Mr Cooper's interview tapes. Black noted:
- Purana understand implications for source if released.*
- 3rd tape very specific by Dale Flynn*
- Reassess next week with Purana*
1692. This was a situation in which the police were concerned that the prosecutorial agency would realise the involvement of Ms Gobbo – not as a human source – but as the legal representative for Mr Cooper on the night he was arrested.

²⁰⁶¹ Exhibit RC0933 Mr James (Jim) O'Brien diary, 29 August 2006, 203.

²⁰⁶² Transcript of Mr James (Jim) O'Brien, 6 September 2019, 5719, TRN.2019.09.06.01.

²⁰⁶³ RC0591 Mr Black diary, 22 August 2006, 152, RCMPPI.0090.0001.0001 @.0152.

7 September 2006 – Decision Not to Task

1693. On 7 September 2006 Mr Sandy White conducted a Monthly Source Review, the last such review having occurred on 24 July 2006. This referred to the risk related to Carl Williams' efforts to determine Ms Gobbo's involvement with Messrs Cooper and Thomas, as well as concerns that Messrs Karam and Milad Mokbel might establish she had reported to police details of a recent container which had been intercepted interstate. It was recommended that Ms Gobbo not be tasked but contact maintained in order to monitor threats to her.²⁰⁶⁴
1694. It is submitted that the evidence demonstrates that despite not being specifically tasked, Ms Gobbo continued to associate with Purana Taskforce targets and provide information to the SDU. The SDU continued to provide intelligence to Mr O'Brien. Examples of this are apparent in Mr O'Brien's diary on 11, 12 and 13 September 2006.²⁰⁶⁵

9 October 2006 – Handler Handover

1695. On 9 October 2006, Ms Gobbo's handler changed from Mr Peter Smith to Mr Anderson.²⁰⁶⁶ Mr Peter Smith prepared a briefing document for Mr Anderson of the current issues relating to the handling of Ms Gobbo. These included:²⁰⁶⁷

1695.1. in relation to Horty Mokbel –

- Ms Gobbo had seen him on 6 October 2006 and spoken about accusations and left on cordial but cold terms

1695.2. in relation to Mr Joyce (a pseudonym) –

- a new client of Ms Gobbo's who had been charged with having a clandestine laboratory on his property earlier in the year, in a matter involving Mr Scott Farragher
- initially considered to be a [REDACTED], but was still a target of MDID
- Ms Gobbo had to get to speak to him alone, they had a solicitor present previously, but she would do so
- Mr Peter Smith spoke to Ms Gobbo about the possibility of her [REDACTED] about him being a target
- Ms Gobbo believed he was innocent, 'or could beat', the current charges

1695.3. in relation to Mr Cooper –

- Ms Gobbo was constantly harassed by phone by Mr Cooper
- Purana were now paying his monthly spending money

²⁰⁶⁴ Exhibit RC0284 SML3838, 7 September 2006, 47, VPL.0005.0099.0001 @.0047.

²⁰⁶⁵ See for example: Exhibit RC0933 Mr James (Jim) O'Brien diary, 11, 12, 13 September 2006, 205, 206, 207.

²⁰⁶⁶ Exhibit RC0284 SML3838, 9 October 2006, 50, VPL.0005.0099.0001 @.0050.

²⁰⁶⁷ Exhibit RC01802 Update re #3838 as of Monday, 9 October 2006, VPL.2000.0001.9441.

- Mr Cooper had told people that Ms Gobbo had \$280,000 of his money, Ms Gobbo rang him and asked about it, and says they have their wires crossed

1695.4. in relation to Mr Thomas –

- he has had his plea hearing, and received 12 years' imprisonment, with less than 10 years before being eligible for parole
- is providing information to Ms Gobbo about what Mr Cooper was saying and thinking and also other information and rumours around the gaol

1695.5. in relation to Carl Williams –

- he wrote a letter of complaint to the Bar Ethics Committee in relation to Ms Gobbo, to which Ms Gobbo has responded
- if Ms Gobbo was visiting Messrs Cooper or Thomas, handler should check with the Purana Taskforce as to what visits Carl Williams and Milad Mokbel had booked in

1695.6. in relation to Roberta Williams –

- she had called Ms Gobbo and abused and subtly threatened her, seemingly fuelled by Ms Gobbo's civil claim against Solicitor 2 for unpaid fees
- Mr Heliotis had also received an abusive phone call
- Ms Gobbo was aware Ms Williams was a current target and therefore assumed there was a telephone intercept in existence
- Ms Gobbo was told that if Ms Williams rang her to aggressively question her and accuse her of threats

1695.7. in relation to Mick Gatto –

- Ms Gobbo was to try and have lunch with he and Matt Tomas to discuss Roberta Williams.

1696. On 18 October 2006, the Monthly Source Review referred again to the Carl Williams' concerns. There was also concern about [REDACTED] who had been [REDACTED] by the Purana Taskforce. Ms Gobbo had informed upon him, continued to inform upon him, and was also acting as his legal representative, although she had been advised not to. It was thought that [REDACTED] might cause further suspicion that Ms Gobbo was helping to 'roll over' suspects against the Mokbels. The recommendation indicated that it was highly likely that Ms Gobbo would be compromised if she was tasked or provided intelligence that required actioning.²⁰⁶⁸ Nevertheless, Ms Gobbo continued to provide intelligence which the SDU would pass on to Mr O'Brien.²⁰⁶⁹

²⁰⁶⁸ Exhibit RC0284 SML3838, 18 October 2006, 56, VPL.0005.0099.0001 @.0056.

²⁰⁶⁹ Exhibit RC0933 Mr James (Jim) O'Brien diary, 23 October, 1, 2 November 2006, 230, 235.

30 October 2006 – Gobbo Given Briefs of Evidence to Check

1697. On 6 October 2006, Ms Gobbo met Mr Rowe whilst at court. She raised with him a concern she had previously about the bail summary he had written for Mr Domenic Barbaro in May 2006 which had made it known that Mr Cooper was originally arrested on 22 April 2006.²⁰⁷⁰
1698. It is apparent that following on from this, arrangements were made for Ms Gobbo to have access to briefs of evidence so that she might vet them and satisfy herself that the police had not included any material which would compromise her role as a human source, or as having represented Mr Cooper.
1699. On 30 October 2006, Mr Rowe provided the SDU with five volumes of the briefs of evidence against Messrs Agrum, Barbaro and Milad Mokbel 'for reviewing'. The briefs had not been authorised or served on any accused.²⁰⁷¹
1700. Ms Gobbo perused the briefs whilst with Messrs Peter Smith and Anderson, making comments in relation to its contents, and querying what investigators would say when asked about certain information on the brief, for example what Mr Flynn would say if he were asked how he came to be aware of the location of the clandestine laboratory at which Mr Cooper was arrested, or what Mr Johns would say if asked who Mr Agrum sought to speak to for legal advice when given his rights. Mr Anderson noted that all such information was verbally conveyed to Mr Flynn.²⁰⁷²
1701. On 31 October 2006, Mr Rowe, who was compiling the briefs, recorded in his diary having a 'debrief with SDU re brief amendment' at 9:00am, prior to his submitting the briefs for authorisation to Mr O'Brien at 10:30am. Mr Rowe denied making any amendments to the brief as a result of what he was told by the SDU.²⁰⁷³
1702. One of the comments made by Ms Gobbo was that [REDACTED] Bayeh should be included as part of the same brief.²⁰⁷⁴ As it transpired, their committal hearings all took place at the same time.

[REDACTED] 2006 – Representation of [REDACTED]

1703. As referred to in [REDACTED] Detective Sergeant [REDACTED] had conducted investigations in the Mokbels and their associates, specifically in relation to [REDACTED] since the early 2000s. One of the associates he had investigated since 2005 was [REDACTED].
1704. On [REDACTED] 2006, [REDACTED] was arrested in relation to offences relating to [REDACTED]. The charges against [REDACTED]

²⁰⁷⁰ Exhibit RC0281 ICR3838 (047), 6 October 2006, 453, VPL.2000.0003.2039; Exhibit RC0281 ICR3838 (032), 19 May 2006, 303, VPL.2000.0003.1889.

²⁰⁷¹ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 16 [121] VPL.0014.0035.0028, .0043; Exhibit RC0281 ICR3838 (051), 30 October 2006, 528, 531-533, VPL.2000.0003.2114, 2117-2119.

²⁰⁷² Exhibit RC0281 ICR3838 (051), 30 October 2006, 533, VPL.2000.0003.2119.

²⁰⁷³ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 17 [122-123] VPL.0014.0035.0028 @.0043.

²⁰⁷⁴ Exhibit RC0281 ICR3838 (051), 30 October 2006, 531, VPL.2000.0003.2117.

included his involvement in [REDACTED]
[REDACTED].

1705. Prior to this time, Ms Gobbo had represented [REDACTED] in at least two other unrelated matters. She had also been providing information about him to police since the time of her registration.
1706. Ms Gobbo had been informed two days prior to the planned arrest of [REDACTED]²⁰⁷⁵. Following his arrest, Ms Gobbo expressed a desire to visit him at the station but was advised against it by her handler, referring to the media presence and her previous assistance.²⁰⁷⁶
1707. [REDACTED], who had been aware of Ms Gobbo's role as a human source from at least mid-2006,²⁰⁷⁷ facilitated Ms Gobbo providing advice to [REDACTED].²⁰⁷⁸
1708. Ms Gobbo said she wanted to attend [REDACTED] bail application but was told there might be issues if the Magistrate did not grant bail, which was a possibility given he had been on bail at the time of his arrest. Ms Gobbo attended court despite the advice of her handler but left before the commencement of the bail application.²⁰⁷⁹
1709. Later that night, Ms Gobbo met with [REDACTED] after he had been granted bail. Ms Gobbo reported to her handler that he had told her that he was '150%' convinced that an informer was involved, given the information that the Purana Taskforce knew about him. Ms Gobbo and her handler had discussion about conflict issues given that [REDACTED] was to be a witness against [REDACTED].²⁰⁸⁰
1710. On the afternoon of [REDACTED] 2006, Ms Gobbo rang [REDACTED] and told him that she had been meeting with [REDACTED] all day and she had advised [REDACTED] to 'help himself' by helping the Purana Taskforce to understand [REDACTED]. She said that [REDACTED] was going to see his instructing solicitor, [REDACTED], about the [REDACTED].²⁰⁸¹
1711. Shortly thereafter, [REDACTED] rang [REDACTED] saying that he [REDACTED], and that he wanted to first discuss the [REDACTED] and then discuss other matters. [REDACTED] said he was meeting with [REDACTED] the following day and would ring after that.²⁰⁸²
1712. The evidence suggests that following this, Ms Gobbo had second thoughts about [REDACTED] becoming a witness. Later that day when speaking to her handler, Mr Anderson, she indicated concern that [REDACTED] might say

²⁰⁷⁵ Exhibit RC0281 ICR3838 (047), 2 October 2006, 444, VPL.2000.0003.2030.

²⁰⁷⁶ Exhibit RC0281 ICR3838 (047), 4 October 2006, 448, VPL.2000.0003.2034.
[REDACTED]

²⁰⁷⁸ Exhibit RC0281 ICR3838 (047), 4 October 2006, 448, VPL.2000.0003.2034.

²⁰⁷⁹ Exhibit RC0281 ICR3838 (047), 4 October 2006, 448-449, VPL.2000.0003.2034-2035.

²⁰⁸⁰ Exhibit RC0281 ICR3838 (047), 4 October 2006, 449, VPL.2000.0003.2035.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

something to the instructing solicitor or in the witness box which could compromise her.²⁰⁸³

1713. On [REDACTED] 2006, [REDACTED] rang [REDACTED] to say that [REDACTED] would not be coming in to assist [REDACTED].²⁰⁸⁴
1714. On [REDACTED] 2006, Ms Gobbo reported that [REDACTED] was excited as Purana Taskforce investigators were [REDACTED] seized under warrant. He believed that investigators did not realise the evidentiary value of what they had in their possession. This information was conveyed to [REDACTED].
1715. On [REDACTED] 2006 Ms Gobbo became concerned about a proposed application by [REDACTED] solicitor, seeking a copy of the [REDACTED] in support of the [REDACTED]. Apparently the [REDACTED] [REDACTED]. There is a suggestion that this information was originally provided by Ms Gobbo, given her concerns that the [REDACTED] [REDACTED]. It appears that, following those concerns, steps were taken to ensure Ms Gobbo's role was not compromised.²⁰⁸⁸
1716. On [REDACTED] 2006, Ms Gobbo was instructed 'to proceed with normal procedure' in making the proposed application, on the basis that Purana would [REDACTED] [REDACTED]. On [REDACTED] 2006, Ms Gobbo told her handler that she had [REDACTED] and had a discussion about its contents, including the fact that it highlighted the involvement of an informer.²⁰⁹⁰

18 November 2006 – Deactivation Discussion

1717. On 18 November 2006, a meeting occurred between Messrs Biggin, Sandy White, Anderson and Peter Smith to discuss the deactivation of Ms Gobbo. It was considered that as a duty of care would be present, they must maintain contact and as such de-registration was not possible at that time. Ms Gobbo was to be advised that her intelligence would not be acted upon or passed on, although it seems that urgent issues in relation to information she provided would be addressed as they arose.
1718. The Monthly Source Review of the same date referred to similar concerns as raised in previous months. It was noted that Ms Gobbo continued to be a high value source of regular intelligence, that was only acted upon if extreme circumstances existed. It was stated that the SDU had to remain in contact with Ms Gobbo to keep abreast of issues including the Court discovery process in relation to committals and trials which might lead to Ms Gobbo's exposure as having assisted police.

²⁰⁸³ Exhibit RC0281 ICR3838 (049), 19 October 2006, 506, VPL.2000.0003.2092.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1719. It was further noted in this review that Ms Gobbo had lost a significant amount of weight and was grinding her teeth, and that the SDU would provide a psychological consultation for Ms Gobbo in the new year. It is apparent that the relationship between Ms Gobbo and the SDU was not an easy one. Ms Gobbo was highly demanding, took up a lot of time, and was not always emotionally stable.

December 2006 – Representation of Domenic Barbaro

1720. A number of months earlier, on 20 August 2006, in response to learning that Ms Gobbo was intending to visit Mr Cooper in custody, Mr Green 'recommended' that Ms Gobbo discuss with him the topic of Domenic Barbaro. That evening, Ms Gobbo had reported back to Mr Green that Domenic Barbaro was a (drug) 'runner' for Shane Moran who was the source of methamphetamine. She said that Mr Cooper liked him and would have taught him how to cook, and that Mr Shane Moran had paid for Mr Barbaro's bail application in which Mr Richter had appeared (as referred to above on 17 May 2006, about which Ms Gobbo had expressed concerns that her assistance to Mr Cooper would be revealed when the informant was cross-examined).
1721. On 6 December 2006, Ms Gobbo reported to Mr Green that Mr Barbaro had attended upon her for legal advice and that [REDACTED]
[REDACTED].²⁰⁹¹
1722. On 15 December 2006, Ms Gobbo appeared on behalf of Mr Barbaro at a committal mention, where his committal was set down, along with that of Mr Milad Mokbel. Messrs Flynn and Rowe from the Purana Taskforce attended court and were therefore aware of Ms Gobbo's involvement with Mr Barbaro.²⁰⁹²
1723. On the same day the matters of Mr Cooper and Mr Agrum were adjourned for further mentions prior to plea hearings the following year.²⁰⁹³

December 2006 – Overland Wants to Ease Gobbo Out

5 December 2006 – Gobbo Information Passed to Ryan at Purana

1724. On 5 December 2006, Mr Ryan was given information by Mr Anderson that had been received from Ms Gobbo. Mr Karam suspected that he was being followed and was wanting weapons for possible 'hits' on a number of people. Horthy Mokbel was also seeking weapons, perhaps for use in relation to a particular person should he be released on bail.²⁰⁹⁴ The SDU considered that the information may be a test of Ms Gobbo.

[REDACTED]
²⁰⁹² Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 15 December 2006, 63, OPP.0001.0004.0025 @.0087; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 15 December 2006, 42, RCMP.0065.0001.0001, @.0042.

²⁰⁹³ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 15 December 2006, 42, RCMP.0065.0001.0001, @.0042.

²⁰⁹⁴ Exhibit RC0312 Mr Gavan Ryan diary, 5 December 2006, 101, VPL.0005.0120.0187 @.0287.

7 December 2006 – Gobbo Receives First Death Threat

1725. From late 2006, Ms Gobbo began receiving anonymous threats. Over the next few years, she received a total of 16 threats, the most serious involving the firebombing of her car in April 2008. The first of these threats was received by way of text message on 7 December 2006, which read:

UR FUCKEN DEAD YOU PRO

U FUCKEN BITCH YOU MOLE U FUCKEN PROSTITUTE UR DEAD

11 December 2006 – Overland Informed of Gobbo Information and Threats

1726. On the morning of 11 December 2006, Mr Ryan provided a Purana Taskforce briefing to at least Messrs Overland and Blayney. They were told about the information from '3838' in relation to the potential 'hit' by Mr Karam and the belief this might be a setup. They were also told that this source had received death threats by text message. Mr Overland requested that Mr Ryan contact the SDU to enquire whether Ms Gobbo could be 'eased out'.²⁰⁹⁵

1727. Later that morning, Mr Ryan spoke with Mr Sandy White about Ms Gobbo and 'easing her out of the picture'. Mr Sandy White told Mr Ryan that he had already begun the process, that the SDU were not passing on information and Ms Gobbo had been told that.²⁰⁹⁶

1728. Mr Sandy White advised that a phased process had already been implemented, which he outlined:

Phase 1 – Cease tasking

Phase 2 – Cease dissemination of intelligence

HS advised

Phase 3 – Psych connection

Phase 4 – Reward process

1729. Mr Sandy White advised that there was an issue related to the ongoing duty of care owed to Ms Gobbo relating to the discovery process at court. Mr Ryan indicated he would update Mr Overland about these matters.²⁰⁹⁷

1730. In late February 2007, after further threats were received, the Purana Taskforce commenced an investigation known as Operation Gosford. For the purposes of that investigation Ms Gobbo was a potential victim. These matters are discussed further in Chapter 13.

Summary of Use since Cooper's Arrest

1731. Ms Gobbo continued to be tasked after May 2006, despite discussions between Mr Overland and Mr Sandy White about severing the relationship between Victoria Police and Ms Gobbo.²⁰⁹⁸ Between 17 May 2006 and 11

²⁰⁹⁵ Exhibit RC0312 Mr Gavan Ryan diary, 7-18 February 2006, 41-45 VPL.0005.0120.0187 @.0227-.0231; Mr John (Jack) Blayney diary, 11 December 2006, 3, VPL.0100.0185.0014 @.0016.

²⁰⁹⁶ Exhibit RC0312 Mr Gavan Ryan diary, 11 December 2006, 103, VPL.0005.0120.0187 @.0289.

²⁰⁹⁷ Exhibit RC0292 Mr Sandy White diary, 11 December 2006, 36, VPL.0100.0096.0468 @.0503

²⁰⁹⁸ Transcript of Ms Nicola Gobbo, 11 February 2020, 13786, 2020.02.11.01.

December 2006, Ms Gobbo continued to provide a significant amount of information, which is recorded in 282 pages of ICRs.²⁰⁹⁹

1732. During this time, Ms Gobbo regularly raised issues with the SDU handlers regarding the positions of conflict in relation to her clients, and her own mental health and welfare. These are documented in ICRs and audio recordings of conversations with SDU members.
1733. By the end of 2006, in relation to arrests made by the Purana Taskforce in Operation Posse, which relied in large part upon information supplied by her, Ms Gobbo had come to advise at least the following individuals:
- 1733.1. Mr Cooper
 - 1733.2. Mr Agrum
 - 1733.3. Mr Milad Mokbel
 - 1733.4. Mr Cvetanovski
 - 1733.5. ██████████
 - 1733.6. Mr Ketch
 - 1733.7. Mr Barbaro.

More Money Matters

1734. Prior to Mr Cooper going into custody in April 2007, Ms Gobbo had reported that Mr Cooper was expecting to collect large amounts of cash, up to \$300,000, which he wanted her to hold for him, including for the purpose of drip feeding into her account when he went to gaol. At the time she discussed with the SDU whether it would be a crime if she held the money.²¹⁰⁰
1735. On 1 May 2006, the SDU received information from Mr O'Brien that \$15,000 cash had been located in the boot of Ms Gobbo's car during a search at the prison the previous day.
1736. On 29 August 2006, Ms Gobbo raised with her handlers the police taking over monthly payments she had been making into Mr Cooper's prison account.²¹⁰¹
1737. In September 2006, Mr O'Brien spoke with Messrs Sandy White, Anderson and Green about 'informer handling issues'. Mr O'Brien agreed that the Purana Taskforce would take over the monthly payments. This was to be done in such a way that Mr Cooper would not realise that Ms Gobbo was not making the payments.²¹⁰²

²⁰⁹⁹ Exhibit RC0281 ICRs.

²¹⁰⁰ Exhibit RC0281 ICR3838 (026, 027 and 028), 13, 14, 18, 19 and 20 April 2006, 240-241, 243, 250, 252, 253, VPL.2000.0003.1826-1827, 1829, 1836, 1838, 1839.

²¹⁰¹ Exhibit RC0281 ICR3838 (043), 29 August 2006, 410, VPL.2000.0003.1996.

²¹⁰² Exhibit RC0933 Mr James (Jim) O'Brien diary, 15 September 2006, 209; Exhibit RC0281 ICR3838 (045), 29 September 2006, 12, VPL.2001.0002.0012.

1738. On 5 October 2006, Ms Gobbo told her handler that Mr Thomas had reported that Mr Cooper telling people that Ms Gobbo was looking after a large sum of money for him, mentioning the amount of \$280,000.²¹⁰³ Ms Gobbo reported similarly in March 2007, denying that she was holding any money belonging to Mr Cooper.²¹⁰⁴
1739. On 16 October 2008, Mr Flynn reported to the SDU that Mr Cooper had told him that he'd given Ms Gobbo a large amount of money prior to entering custody, some of which had been spent on legal fees, and referring to the money contributing to his monthly payments.²¹⁰⁵
1740. No investigation was made of this matter by the SDU or Purana Taskforce investigators.
1741. In his evidence to the Commission, Mr Cooper maintained that he had provided Ms Gobbo with a large amount of money. He said he had \$400,000 and after providing \$5,000 to Mr Bickley at a meeting he was left with \$395,000. He said he provided this to Ms Gobbo in a backpack with instructions that \$150,000 was for Ms Gobbo to pay legal fees to herself and others, and the remainder was to be used to make payments into his prison account, to purchase gifts for family members, leaving him an ample sum upon his release.²¹⁰⁶
1742. Mr Cooper said that following his release from custody he had contact with Ms Gobbo in an attempt to have Ms Gobbo repay his money. He gave evidence about a meeting with Ms Gobbo when she brought along an associate who asked him to manufacture methamphetamine again. Mr Cooper said he walked away and never saw her again.²¹⁰⁷ He acknowledged that the money was proceeds of crime, and he could not take legal action to recover it.²¹⁰⁸ Initially Mr Cooper put this meeting as around Christmas 2012. When text messages were put to him indicating a continuing relationship beyond that point he said the meeting must have been some months later. Mr Cooper pointed to the lack of contact between them from that time.²¹⁰⁹
1743. In her evidence to the Commission, Ms Gobbo said that Mr Cooper's claim to have provided her with this large amount of money was 'absolute rubbish'. She conceded that prior to his going into custody, he had paid her some cash from which his legal fees were paid, including to herself. When asked if she held a trust account, she responded that her clerk had a trust account and she believed the money paid to her was put into that trust account.²¹¹⁰ In re-examination Ms Gobbo said she hadn't received cash for payment to Mr Cooper's instructing solicitors and counsel, rather that he had paid his instructing solicitor.²¹¹¹
1744. In March and May 2019, searches were conducted of Ms Gobbo's home pursuant to the provisions of the *Inquiries Act 2014* (Vic). Amounts of cash

²¹⁰³ Exhibit RC0281 ICR3838 (047), 5 October 2006, 451, VPL.2000.0003.2037.

²¹⁰⁴ Exhibit RC0281 ICR3838 (072), 29 March 2007, 741, VPL.2000.0003.2327.

²¹⁰⁵ Exhibit RC0281 ICR2958 (043), 16 October 2008, 677, VPL.2000.0003.1415.

²¹⁰⁶ Transcript of Mr Cooper, 31 October 2019, 8730-8732, TRN.2019.10.31.01.

²¹⁰⁷ Transcript of Mr Cooper, 31 October 2019, 8738-8741, TRN.2019.10.31.01.

²¹⁰⁸ Transcript of Mr Cooper, 31 October 2019, 8731, TRN.2019.10.31.01.

²¹⁰⁹ Transcript of Mr Cooper, 24 January 2020, 12413-12432, TRN.2019.10.31.01.

²¹¹⁰ Transcript of Ms Gobbo, 4 February 2020, 13056-13058, TRN.2020.02.04.01.

²¹¹¹ Transcript of Ms Gobbo, 11 February 2020, 13776, TRN.2020.02.04.01.

was found in various locations. The way in which some of the cash was found suggested Ms Gobbo received cash sums directly from clients as payment of her fees, which were not lodged in a trust account. The cash located included:

Description	Location	Search item No.
\$3000 (60 x \$50 notes) - in white envelope labelled 'N. Gobbo (01)' (retrieved from manila folder labelled 'Fees')	Large clear plastic tub (containing a number of books), located on second shelf in garage, near door to yard	87.
\$2000 (40 x \$50 notes) - in blank white envelope (retrieved from manila folder labelled 'Fees')	Large clear plastic tub (containing a number of books), located on second shelf in garage, near door to yard	88.
\$1100 (11 x \$100 notes) - in white envelope marked 'Nic'	Large clear plastic tub (containing a number of books), located on second shelf in garage, near door to yard	85.
\$1,000 (20 x \$50 notes) - in white envelope labelled 'Nic'	Box labelled 'NG evidence docs', stacked against back corner of garage on right hand side, above black side cabinet	79.
\$1,000 (20 x \$50 notes) - in white envelope labelled 'Nicola Gobbo, Manariti (with possibly separate markings: 'Email F/N Al ian'), contained within Quick Deposit Envelope	Large clear plastic tub (containing a number of books), located on second shelf in garage, near door to yard	83.
\$5,000 (50 x \$100 notes) - in white envelope labelled 'Carwash July rent' (retrieved from bound folder/brief re Azzam Ahmed)	Box labelled 'NG evidence docs', stacked against back corner of garage on right hand side, above black side cabinet	78.
\$1,000 (10 x \$100 notes) - in envelope labelled 'Nic, herewith \$10.00. Thanks Al' on Grigor Lawyers envelope	Large clear plastic tub (containing a number of books), located on second shelf in garage, near door to yard	84.
\$2,000 (40 x \$50 notes) - bound by rubber band inside birthday card, 'from [REDACTED] and Purana'	Box labelled 'NG evidence docs', stacked against back corner of garage on right hand side, above black side cabinet	77.
\$950 cash	Spare bedroom	102.

This submission has been redacted due to a range of non-publication claims. These claims are not yet resolved.

\$200 cash	Top right hand side of laundry cupboard (when facing away from sink) inside black purse.	105.
\$50 cash	Garage – inside stationary container in box, located on 2nd shelf	37.
\$1,305USD - loose, on top of stack of cards	Large clear plastic tup (containing a number of books), located on second shelf in garage, near door to yard	81.
\$520AUD and \$142USD	Bottom drawer of black cabinet in garage, on left hand side	53.

CHAPTER 11 – CASE STUDY: MR COOPER (A PSEUDONYM) & OPERATION POSSE

Introduction

1745. This section of the submissions addresses the use of Ms Gobbo by Victoria Police in relation to Cooper and Operation Posse. It includes a study of the ways in which the use of Ms Gobbo may have affected the cases of Mr Cooper, whilst also addressing the use of Ms Gobbo in aid of the broader aspects of investigation under Operation Posse. The submissions which follow are in six parts:

1745.1. Part 1 contains a background on Operation Posse

1745.2. Part 2 summarises the four cases of Mr Cooper, which, it will be submitted, may have been affected by Victoria Police's use of Ms Gobbo as a human source

1745.3. Part 3 sets out detail of Ms Gobbo's legal representation of Mr Cooper

1745.4. Part 4 contains a chronological account of the use of Ms Gobbo by Victoria Police in relation to Mr Cooper

1745.5. Part 5 contains submissions under Terms of Reference 1 and 2, analysing the ways in which Mr Cooper's cases may have been affected by Ms Gobbo and current and former members of Victoria Police

1745.6. Part 6 addresses the impact of the conduct of Ms Gobbo and Victoria Police in relation to Mr Cooper on subsequent cases.

Part 1 – Summary of Operation Posse

1746. Operation Posse was established in 2004 within the Purana Taskforce. Its focus was to target members of the Mokbel family and their associates with a view to 'dismantling their operations or making it impossible for them to operate.'²¹¹² The post-16 September 2005 events set out below concerning Victoria Police's use of Ms Gobbo against her client, Mr Cooper, largely occurred within the execution of Operation Posse.

Part 2 – Summary of the Cases of Mr Cooper

1747. The relevant matters concerning Mr Cooper comprise four cases:

1747.1. Presentment Q00322061,²¹¹³ arising from Operation Landslip (Landslip Case);²¹¹⁴

²¹¹² Exhibit RC0314 Operation Posse: Operational Assessment into the Mokbel Criminal Cartel, April 2005, 5 VPL.0100.0013.3276 @.3281.

²¹¹³ Exhibit RC0664 Presentment no: Q00322061, *The Queen v Cooper*, 23 February 2007, 3, RCMP.0042.0004.0002 @.0003.

²¹¹⁴ Exhibit RC1883 Transcript of proceedings, *The Queen v Cooper* (██████████), 8 February 2007, 14 OPP.0038.0001.0002 @ 0014.

- 1747.2. Presentment C0303299,²¹¹⁵ arising from Operation Matchless (Matchless Case);²¹¹⁶
- 1747.3. Presentment C0303299.5,²¹¹⁷ relating to possession of cannabis (Cannabis Case);²¹¹⁸ and
- 1747.4. Presentment C0605093,²¹¹⁹ arising from Operation Posse (Posse Case).²¹²⁰
1748. The four cases were determined together as part of consolidated plea and sentencing hearings in February 2007.²¹²¹

The Landslip Case

1749. The Landslip Case concerned one charge of trafficking in a large commercial quantity of methylamphetamine on 13 February 2002, relating to a manufacturing enterprise at a premises in Anderson St, Pascoe Vale.²¹²² The enterprise was discovered by police, on 13 February 2002, when a fire was caused at the premises by the manufacturing materials.²¹²³ The case against Mr Cooper was that he was ██████████, who manufactured the drug in association with members of the Mokbel family.²¹²⁴
1750. Mr Cooper was arrested for the offending in the Landslip Case on 13 February 2002, before being released on bail the following day.²¹²⁵

The Matchless Case

1751. The Matchless Case concerned one charge of trafficking in a large commercial quantity, between 10 September 2002 and 11 April 2003, which

²¹¹⁵ Exhibit RC0664 Presentment no: C0303299, *The Queen v Cooper*, 23 February 2007, RCMP.0042.0004.0002 @.0003.

²¹¹⁶ Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper* (██████████), 8 February 2007, 14, OPP.0038.0001.0002 @.0014.

²¹¹⁷ Exhibit RC0664 Presentment no: C0303299.5, *The Queen v Cooper*, 23 February 2007, RCMP.0042.0004.0002 @.0003.

²¹¹⁸ Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper* (██████████), 8 February 2007, 34, OPP.0038.0001.0002 @.0034; Exhibit RC0665 Reasons for Sentence, *R v Cooper* ██████████ [2007] VCC 0168, ██████████ February 2007, 3 [11], RCMP.0042.0004.0003 @.0004.

²¹¹⁹ Exhibit RC0664 Presentment no: C0605093, *The Queen v Cooper*, 23 February 2007, RCMP.0042.0004.0002 @.0003; Exhibit RC1836 County Court Suppression Order, *The Queen v Cooper* ██████████, 9 February 2007, 507, OPP.0038.0001.0002 @.0507.

²¹²⁰ Exhibit RC1855 Presentment No: C0605093, *The Queen v Cooper*, 2007, 12-13, OPP.0038.0001.0002 @.0012 - .0013; Exhibit RC0665 Reasons for Sentence, *R v Cooper and* ██████████ [2007] VCC 0168, ██████████ February 2007, 1 [1], RCMP.0042.0004.0003 @.0002.

²¹²¹ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ██████████ [2007] VCC 0168, ██████████ February 2007, 1 [1], RCMP.0042.0004.0003 @.0002.

²¹²² Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper*, ██████████, 8 February 2007, 22-23, OPP.0038.0001.0002 @.0037-38; Exhibit RC0665 Reasons for Sentence, *R v Cooper* ██████████ [2007] VCC 0168, ██████████ February 2007, 1 [4] - 2 [7], RCMP.0042.0004.0003 @.0002-3; Transcript of Mr Cooper, 31 October 2019, 8862, TRN.2019.10.31.01 [not yet published].

²¹²³ Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper* (██████████), 8 February 2007, 22-23, OPP.0038.0001.0002 @.0037-38; Exhibit RC0665 Reasons for Sentence, *R v Cooper and* ██████████ [2007] VCC 0168, ██████████ February 2007, 1 [4] - 2 [7], RCMP.0042.0004.0003 @.0002-3;

²¹²⁴ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ██████████ [2007] VCC 0168, ██████████ February 2007, 2 [7], RCMP.0042.0004.0003 @.0002.

²¹²⁵ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ██████████ [2007] VCC 0168, ██████████ February 2007, 2 [7], RCMP.0042.0004.0003 @.0002.

related to a manufacturing enterprise at a premises in Rye.²¹²⁶ Mr Cooper's offending in the Matchless Case was committed whilst he was on bail for the offending in the Landslip Case.²¹²⁷

1752. During the period of the offending, large portions of the drugs produced were delivered to the members of the Mokbel family.²¹²⁸ Mr Cooper was arrested on 11 April 2003, shortly after making one such delivery.²¹²⁹ He was thereafter remanded in custody, until he was again released on bail on 19 December 2003.²¹³⁰

The Cannabis Case

1753. The Cannabis Case concerned one charge of possession of cannabis, relating to [REDACTED] of cannabis that was found in Mr Cooper's possession upon his arrest on 11 April 2003 for the offending in the Matchless Case.²¹³¹ Given the apparent procedural and substantive interconnection between the Matchless Case and the Cannabis Case,²¹³² the submissions below proceed on the basis they are effectively one and the same.

The Posse Case

1754. The Posse Case concerned offending committed by Mr Cooper between 15 and 22 April 2006, comprising two charges of trafficking drugs of dependence and one charge of possessing unregistered handguns.²¹³³
1755. On 15 April 2006, Mr Cooper took possession of shop front premises in Lloyd St, Strathmore.²¹³⁴ Over the following week, he undertook works to adapt the premises for the purposes of manufacturing methylamphetamines.²¹³⁵ On 21 April 2006, the manufacturing of the drugs

²¹²⁶ [REDACTED] was a co-accused this case. See Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper* ([REDACTED]), 8 February 2007, 23-25, OPP.0038.0001.0002 @.0038-40; Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 2 [8] – 3 [11], RCMP.0042.0004.0003 @.0003-4; Transcript of Mr Cooper, 31 October 2019, 8663, TRN.2019.10.31.01 [not yet published].

²¹²⁷ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 2 [8], RCMP.0042.0004.0003 @.0003.

²¹²⁸ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 2 [9] – 3 [10], RCMP.0042.0004.0003 @.0003-4.

²¹²⁹ Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper* ([REDACTED]), 8 February 2007, 24-25, OPP.0038.0001.0002 @.0039-40; Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 2 [10] – 3 [12], RCMP.0042.0004.0003 @.0003-4.

²¹³⁰ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 3 [12], RCMP.0042.0004.0003 @.0004.

²¹³¹ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 3 [11], RCMP.0042.0004.0003 @.0004.

²¹³² Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 3 [11], RCMP.0042.0004.0003 @.0004.

²¹³³ Count 1 was for trafficking in a large commercial quantity of methylamphetamine, between 15 and 22 April 2006. Count 2 was for trafficking in a commercial quantity of 3,4-Methylenedioxyphenyl-2-Propanone, on 22 April 2006. Count 3 was for possessing two unregistered category handguns, on 22 April 2006. See Exhibit RC1855 Presentment No: C0605093, *The Queen v Cooper*, 2007, 12-13, OPP.0038.0001.0002 @.0012 -13; Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 3 [13] – [14], RCMP.0042.0004.0003 @.0004; Transcript of Mr Cooper, 31 October 2019, 8663-4, TRN.2019.10.31.01 [not yet published].

²¹³⁴ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 3 [13], RCMP.0042.0004.0003 @.0004.

²¹³⁵ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ([REDACTED]) [2007] VCC 0168, [REDACTED] February 2007, 3 [13], RCMP.0042.0004.0003 @.0004.

commenced.²¹³⁶ On 22 April 2006, the enterprise was interrupted when police executed a search warrant.²¹³⁷ Mr Cooper was then arrested and remanded in custody through to his sentence on ■ February 2007.²¹³⁸ The prosecution case against Mr Cooper in the Posse Case relied upon, inter alia, the evidence obtained as a product of the search warrant executed on 22 April 2006,²¹³⁹ as well as admissions provided by Mr Cooper following his arrest.²¹⁴⁰

Plea and Sentence in the Four Cases

1756. Mr Cooper pleaded guilty in each case and was sentenced for the offending in the County Court on ■ February 2007.²¹⁴¹ As part of the sentencing exercise, the Court took into account the assistance that Mr Cooper had provided, and undertook to continue to provide, to the authorities following his arrest in April 2006.²¹⁴² In particular, in sentencing Mr Cooper, the sentencing judge noted the following matters in relation to his assistance:

1756.1. Mr Cooper's assistance had 'disclosed wide scale criminal activity at a very high level'²¹⁴³

1756.2. his assistance included having made (as at the date of the plea) 29 statements to police²¹⁴⁴

1756.3. as a result of his assistance, a number of people were arrested and charged²¹⁴⁵

1756.4. Mr Cooper's co-operation had enabled police to take 'actions ... with respect to 30 or 31 different people, the majority of whom ... [were] entrenched in the heart of the Melbourne underworld'.²¹⁴⁶

1757. On account of his assistance, Mr Cooper received 'exceptional leniency' from the Court, which imposed a 'less severe sentence than would otherwise have been imposed because of the undertaking given by [Mr Cooper] to assist ... law enforcement authorities in the investigation and

²¹³⁶ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 3 [14], RCMP1.0042.0004.0003 @.0004.

²¹³⁷ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 3 [14], RCMP1.0042.0004.0003 @.0004.

²¹³⁸ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 3 [14], RCMP1.0042.0004.0003 @.0004.

²¹³⁹ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 3 [14], RCMP1.0042.0004.0003 @.0004.

²¹⁴⁰ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 7 [29], RCMP1.0042.0004.0003 @.0008.

²¹⁴¹ County Court of Victoria, 'Reasons for Sentence', *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, RCMP1.0042.0004.0003. Transcript of Mr Cooper, 31 October 2019, 8664, TRN.2019.10.31.01 [not yet published].

²¹⁴² Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 7 [29] - 8 [35], RCMP1.0042.0004.0003 @.0008-9.

²¹⁴³ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 7 [29] - [30], RCMP1.0042.0004.0003 @.0008.

²¹⁴⁴ County Court of Victoria, 'Reasons for Sentence', *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, [29]-[30], RCMP1.0042.0004.0003 @.0008; See description of each statement upon their tender in Transcript of plea proceedings, *The Queen v Cooper*, (■), 8 February 2007, 34-49, OPP.0038.0001.0002 @ 49-64.

²¹⁴⁵ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 7 [29], RCMP1.0042.0004.0003 @.0008.

²¹⁴⁶ Exhibit RC0665 Reasons for Sentence, *R v Cooper* ■ [2007] VCC 0168, ■ February 2007, 8 [33], RCMP1.0042.0004.0003 @.0009.

prosecution of criminal offences'.²¹⁴⁷ In the end, Mr Cooper received a total effective sentence of 10 years' imprisonment, with a non-parole period of seven years' imprisonment.²¹⁴⁸

Part 3 – Summary of Ms Gobbo's Representation of Mr Cooper

1758. Between 2002 and 2007, Ms Gobbo acted for and advised Mr Cooper in relation to numerous legal proceedings.²¹⁴⁹
1759. In particular, between 2002 and 2005, Ms Gobbo acted for or advised Mr Cooper in relation to the Landslip and Matchless cases.²¹⁵⁰ Ms Gobbo continued to act for Mr Cooper during and after the time she became registered as a human source in September 2005. For example:
- 1759.1. on 13 September 2005, Ms Gobbo appeared on behalf of Mr Cooper at a case conference in relation to the Landslip and Matchless cases²¹⁵¹
- 1759.2. on 17 October 2005, Ms Gobbo marked fees for a brief from Tony Hargreaves & Associates to appear before the County Court for an adjournment application on behalf of Mr Cooper²¹⁵²
- 1759.3. on 28 October 2005, Ms Gobbo appeared on behalf of Mr Cooper before the County Court for a mention and adjournment application

²¹⁴⁷ Exhibit RC0665 Reasons for Sentence, *R v Cooper* [2007] VCC 0168, February 2007, 9 [36], RCMP.0042.0004.0003 @.0010.

²¹⁴⁸ Exhibit RC0665 Reasons for Sentence, *R v Cooper* [2007] VCC 0168, February 2007, 10 [43], RCMP.0042.0004.0003 @.0011; NB, 563 days was declared as time already served: see Exhibit RC0665 Reasons for Sentence, *R v Cooper* [2007] VCC 0168, February 2007, 10 [44], RCMP.0042.0004.0003 @.0011. Other ancillary orders were also made, namely a compensation order, and a pecuniary penalty order, disposal orders, forensic sample orders, and forfeiture orders: see Exhibit RC0665 Reasons for Sentence, *R v Cooper* [2007] VCC 0168, February 2007, 10 [45] – 13 [68], RCMP.0042.0004.0003 @.0011-14.

²¹⁴⁹ Transcript of Mr Cooper, 31 October 2019, 8664, TRN.2019.10.31.01 [not yet published].

²¹⁵⁰ Exhibit RC1568 Ms Nicola Gobbo fee Book 01, 1 November 2002, 25 November 2002, 29 September 2003, 22 December 2003, 2 August 2004, 22 March 2005 and 17 October 2005, 56-57, 67, 70, 79, 86, 92, MIN.5000.7000.0001 @.0056-57, .0067, .0070, .0079, .0086, 0092; Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 230-235, COR.1000.0001.0355 @ 22-27; Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 4 September 2003, 15–16, CNS.0001.0003.0037 @.0051-52; Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 26 September 2003, 29, 41, OPP.0001.0004.0025 @.0053, .0065; Exhibit RC1841 Magistrates' Court of Victoria Records of Persons represented by Ms Nicola Gobbo, 26 September 2003, 14-16, MCV.0001.0001.0001 @.0012-14; Exhibit RC1569 Meldrum & Hyland Barristers' Clerks Ms Nicola Gobbo Statement of Accounts, 2 August 2004, 89, GMH.0001.0001.0002 @.0089; Exhibit RC1569 Meldrum & Hyland Barristers' Clerks Invoice for fees due to Ms Nicola Gobbo, 2 August 2004, 86, GMH.0001.0001.0012 @.0086.

²¹⁵¹ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 26 September 2003, 41, OPP.0001.0004.0025 @.0065
Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 234-235, COR.1000.0001.0355 @ 26-27.

²¹⁵² Exhibit RC1568 Ms Nicola Gobbo fee book 01, 17 October 2005, 92, MIN.5000.7000.0001 @.0092; Exhibit RC1569 Meldrum & Hyland Barristers' Clerks Ms Nicola Gobbo Statement of Account, 17 October 2005, 54, GMH.0001.0001.0002 @.0054; Exhibit RC1569 Meldrum & Hyland Barristers' Clerks Invoice for fees due to Ms Nicola Gobbo, 17 October 2005, 31, GMH.0001.0001.0010 @.0031.

in relation to the Landslip and Matchless cases before the County Court.²¹⁵³

1760. Further, between October 2005 and Mr Cooper's arrest in relation to the Posse Case on 22 April 2006, Ms Gobbo maintained an ongoing professional relationship with him in relation to his legal matters.²¹⁵⁴ For example:
- 1760.1. throughout this period, Ms Gobbo held a brief to appear at his plea hearing for the Landslip and Matchless cases, then listed on 1 May 2006 (although later adjourned to February 2007)²¹⁵⁵
 - 1760.2. in March 2006, Mr Cooper and Ms Gobbo discussed his upcoming hearing and the possibility of a further adjournment of the Landslip and Matchless cases²¹⁵⁶
 - 1760.3. on 13 April 2006, she conferred with Mr Cooper and her instructing solicitor, Mr Hargreaves, in relation to the pending plea hearing for the Landslip and Matchless cases²¹⁵⁷
 - 1760.4. on or about 15 April 2006, according to the ICR records, she gave Mr Cooper 'a list of things to do to prepare for his upcoming plea ie. 25 character references'²¹⁵⁸
 - 1760.5. on 18 April 2006, she 'reminded him re character references' in relation to the pending plea hearing²¹⁵⁹
 - 1760.6. on 19 April 2006, she told her handlers that Mr Cooper 'was to bring some references [to her] for use at pending plea hearing/adjournment'.²¹⁶⁰
1761. Upon Mr Cooper's arrest in relation to the Posse Case on 22 April 2006, Ms Gobbo was the first and only lawyer from whom Mr Cooper received legal advice.²¹⁶¹ As is detailed below, after he was taken into custody, Ms Gobbo attended the police station and provided him with advice, including prior to his second police interview when he first agreed to co-operate with and

²¹⁵³ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 26 September 2003, 29, 41, OPP.0001.0004.0025 @.0053, .0065; Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 235, COR.1000.0001.0355 @ 27; Exhibit RC0281 ICR3838 (007), 28 October 2005, 43, VPL.2000.0003.1629.

²¹⁵⁴ Ms Gobbo accepts that she was his lawyer in late 2005 and early 2006; see Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 252, COR.1000.0001.0355 @ 44; Transcript of Mr Cooper, 31 October 2019, 8665–6, TRN.2019.10.31.01 [not yet published].

²¹⁵⁵ Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 264, COR.1000.0001.0355 @ 56. In relation to the listing date of 1 May 2006, Exhibit RC0281 ICR3838 (012), 13 December 2005, 86, VPL.2000.0003.1672. The circumstances of the matters being adjourned to February 2007 are addressed below.

²¹⁵⁶ See Exhibit RC0281 ICR3838 (021), 6 March 2006, 178, VPL.2000.0003.1764; Exhibit RC0281 ICR3838 (022), 11 March 2006, 184, VPL.2000.0003.1770; Exhibit RC0281 ICR3838 (024), 29 March 2006, 216, VPL.2000.0003.1802; ("Cooper [sic] upcoming case and possibility of adjournment is on his mind").

²¹⁵⁷ Exhibit RC0281 ICR3838 (027), 13 April 2006, 241, VPL.2000.0003.1827.

²¹⁵⁸ Exhibit RC0281 ICR3838 (027), 15 April 2006, 241, VPL.2000.0003.1831; Transcript of Mr Cooper, 31 October 2019, 8666, TRN.2019.10.31.01 [not yet published].

²¹⁵⁹ Exhibit RC0281 ICR3838 (027), 18 April 2006, 248, VPL.2000.0003.1834.

²¹⁶⁰ Exhibit RC0281 ICR3838 (028), 18 April 2006, 252, VPL.2000.0003.1838.

²¹⁶¹ Further details of these events are set out below.

assist police.²¹⁶² Over the days, weeks, and months following his arrest, she continued to act as his lawyer, including:

- 1761.1. between 23 and 24 April 2006, members of Victoria Police (including Mr Flynn) facilitated several telephone calls between Mr Cooper and Ms Gobbo, on the ostensible basis that she was his legal representative²¹⁶³
- 1761.2. on 25 April 2006, she conferred with Mr Cooper in custody²¹⁶⁴
- 1761.3. on 26 April 2006, she appeared for Mr Cooper at a filing hearing in relation to the Posse Case,²¹⁶⁵ before later telling her handlers that she intended on acting for Mr Cooper in his plea hearing²¹⁶⁶
- 1761.4. on 28 April 2006, she appeared for Mr Cooper in a mention and adjournment application in relation to the Matchless and Landslip cases²¹⁶⁷
- 1761.5. on 30 April 2006, Ms Gobbo conducted a professional visit to Mr Cooper, whilst he was remanded in custody²¹⁶⁸
- 1761.6. on 10 May 2006, she accepted service on behalf of Mr Cooper of evidential material from a member of Victoria Police, namely Mr Hayes of Purana Taskforce²¹⁶⁹
- 1761.7. between May 2006 and February 2007 (when Mr Cooper was sentenced in the four cases), she conducted some 14 professional visits upon him whilst he was remanded in custody²¹⁷⁰
- 1761.8. between May 2006 and February 2007, she was on Mr Cooper's prison telephone list, and communicated with him by telephone (including to discuss his legal matters) on a frequent basis.²¹⁷¹

²¹⁶² Further details of these events are set out below.

²¹⁶³ Exhibit RC0281 ICR3838 (028), 23 April 2006, 263, VPL.2000.0003.1849; Exhibit RC0281 ICR3838 (028), 24 April 2006, 264, 266, VPL.2000.0003.1850 and 1852; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [55], VPL.0014.0042.0001 @.0010.

²¹⁶⁴ Exhibit RC0281 ICR3838 (029), 25 April 2006, 263, VPL.2000.0003.1856.

²¹⁶⁵ Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 311, COR.1000.0001.0355 @ 103.

²¹⁶⁶ Exhibit RC0549d Transcript of meeting between Nicola Gobbo, Green and Sandy White, 26 April 2006, 115, VPL.0005.0111.0001 @ 0115.

²¹⁶⁷ Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 311, COR.1000.0001.0355 @ 103; Exhibit RC0281 ICR3838 (030), 28 April 2006, 274, VPL.2000.0003.1858.

²¹⁶⁸ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 30 April 2006, 24, CNS.0001.0003.0037 @.0060.

²¹⁶⁹ Exhibit RC0726 Statement of Detective Sergeant Craig Hayes, 25 July 2019, 6 [39], VPL.0014.0044.0001 @.0006.

²¹⁷⁰ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 7 May 2006, 29 May 2006, 12 June 2006, 26 June 2006, 12 July 2006, 21 July 2006, 28 July 2006, 6 August 2006, 13 August 2006, 20 August 2006, 3 September 2006, 5 October 2006, 13 November 2006 and 22 December 2006, 24–26, CNS.0001.0003.0037 @.0060-62; Exhibit RC0281 ICR3838 (030), 30 April 2006, 276, VPL.2000.0003.1862-3, "D/Sgt Flynn adv [re content of communications with Cooper]"; Exhibit RC0281 ICR3838 (031), 7 May 2006, 289–90, VPL.2000.0003.1875-6, [content passed on]; Exhibit RC0281 ICR3838 (031), 14 May 2006, 297–98, VPL.2000.0003.1883–4; Exhibit RC0281 ICR3838 (033), 29 May 2006, 312, VPL.2000.0003.1898.

²¹⁷¹ Exhibit RC0281 ICR3838 (030), 29 April 2006, 276, VPL.2000.0003.1862; Exhibit RC0281 ICR3838 (030), 2 May 2006, 279–280, VPL.2000.0003.1865-66; Exhibit RC0281 ICR3838 (030), 3 May 2006, 281–282, VPL.2000.0003.1867-8; Exhibit RC0281 ICR3838 (030), 4 May 2006, 283, VPL.2000.0003.1869, [content passed on]; Exhibit RC0281 ICR3838 (031), 5 May 2006, 285,

1762. While Ms Gobbo did not, in the end, appear on Mr Cooper's behalf at his plea and sentencing hearings in February 2007,²¹⁷² which was due to his desire to be represented instead by senior counsel,²¹⁷³ she did continue to visit him on a 'professional' basis up until June 2007.²¹⁷⁴
1763. Moreover, it is notable that, in addition to their professional relationship, between at least September 2005 and February 2007, Ms Gobbo also maintained a close personal and social relationship with Mr Cooper, as set out below. Beyond that period, Ms Gobbo and Mr Cooper maintained contact until as late as 2013.²¹⁷⁵

Part 4 – Chronological Account of the Use of Ms Gobbo in relation to Mr Cooper

September 2005 to December 2005

1764. A number of relevant events and meetings within Victoria Police during the period immediately preceding and following Ms Gobbo's registration are set out in the chapter dealing with Ms Gobbo's registration.
1765. Ms Gobbo began providing information to police about Mr Cooper in September 2005, immediately upon her registration as a human source.²¹⁷⁶ At or soon after this time, members of Victoria Police (including Messrs Peter Smith, Sandy White, Rowe, Mansell, O'Brien and Flynn) were fully aware that Mr Cooper was an ongoing client of Ms Gobbo.²¹⁷⁷
1766. Victoria Police were particularly interested in the use of Ms Gobbo as a human source as it had been identified that she could assist in providing

VPL.2000.0003.1871; Exhibit RC0281 ICR3838 (031), 6 May 2006, 289, VPL.2000.0003.1875; Exhibit RC0281 ICR3838 (031), 6 May 2006, 289, VPL.2000.0003.1875; Exhibit RC0281 ICR3838 (031), 11 May 2006, 295, VPL.2000.0003.1881; Exhibit RC0281 ICR3838 (032), 21 May 2006, 304, VPL.2000.0003.1890, [content passed on]; Exhibit RC0281 ICR3838 (032), 22 May 2006, 305, VPL.2000.0003.1891, [content passed on]; Exhibit RC0281 ICR3838 (034), 3 June 2006, 318, VPL.2000.0003.1904, [content passed on]; Exhibit RC0281 ICR3838 (034), 6 June 2006, 319, VPL.2000.0003.1905, [content passed on]; Exhibit RC0281 ICR3838 (034), 10 June 2006, 326, VPL.2000.0003.1912; Exhibit RC0281 ICR3838 (037), 7 July 2006, 351, VPL.2000.0003.1937; Exhibit RC0281 ICR3838 (040), 10 August 2006, 388, VPL.2000.0003.1974; Exhibit RC0281 ICR3838 (041), 11 August 2006, 391, VPL.2000.0003.1977; Exhibit RC0281 ICR3838 (043), 26 August 2006, 407, VPL.2000.0003.1993; Exhibit RC0281 ICR3838 (046), 25 September 2006, 460, VPL.2000.0003.2022; Exhibit RC0281 ICR3838 (048), 9 October 2006, 436, VPL.2000.0003.2046; Exhibit RC0281 ICR3838 (049), 16 October 2006, 490, VPL.2000.0003.2076; Exhibit RC0281 ICR3838 (054), 26 November 2006, 565, VPL.2000.0003.2151; Exhibit RC0281 ICR3838 (055), 3 December 2006, 572, VPL.2000.0003.2158. Transcript of Mr Cooper, 31 October 2019, 8720-1, TRN.2019.10.31.01 [not yet published].

²¹⁷² Exhibit RC1883 Transcript of plea proceedings, *The Queen v Cooper*, [REDACTED], 8 February 2007, OPP.0038.0001.0002 @.0014.

²¹⁷³ See Transcript of Cooper, 31 October 2019, 8738, TRN.2019.10.31.01 [not yet published].

²¹⁷⁴ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 11 June 2007, 26, CNS.0001.0003.0037 @.0062.

²¹⁷⁵ Transcript of Mr Cooper, 31 October 2019, 8738–41, TRN.2019.10.31.01 [not yet published]; Transcript of Mr Cooper, 24 January 2020, 12413–17, 12427-9, TRN.2020.01.24.01 [not yet published].

²¹⁷⁶ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4-5, VPL.2000.0003.1590-91.

²¹⁷⁷ Exhibit RC0281 ICR3838 (002), 21 September 2005, 9, VPL.2000.0003.1595; Transcript of Mr Peter Smith, 11 September 2019, 6100-1, [TRN.2019.09.11.01.C [not yet published]; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 6 [34]–[36], VPL.0014.0042.0001 @.0006; Transcript of Ms Nicola Gobbo, 6 February 2020, 13312, TRN.2020.02.06.01.P stating that the SDU "knew" that she was at the time acting for Mr Cooper; Mr Rowe and Mr Mansell were present at the 16 September 2005 meeting between the SDU and Ms Gobbo when she said she was acting for Mr Cooper; an analysis of Mr O'Brien's knowledge is set out below.

intelligence relevant to the Mokbel family and its alleged criminal enterprises,²¹⁷⁸ which was part of the focus of the Purana Taskforce²¹⁷⁹ as well as the MDID. Mr O'Brien was told in September 2005 that he would be taking over the Purana Taskforce as its Detective Acting Inspector.²¹⁸⁰

1767. On 26 September 2005, Ms Gobbo told her handlers (Messrs Peter Smith and Sandy White) that 'Cooper would ... have sufficient information about Mokbel to put him away for a long time'.²¹⁸¹ Members of Victoria Police (including investigators such as Mr O'Brien) recognised the use of Ms Gobbo as a human source in relation to Mr Cooper as being central to the Investigation Plan for Operation Posse.²¹⁸² Between October and November 2005, the Investigation Plan included the following:

Investigation Objectives

Utilise the continuing information provided by Registered Human Sources [primarily Ms Gobbo].²¹⁸³

Seek to [REDACTED] to progress drug investigations and attempts to corrupt police members.²¹⁸⁴

...

Main Investigative Steps

In line with reliable source information attempt to [REDACTED] [REDACTED] relative to the Mokbels. [REDACTED] Cooper by further investigation of current criminal activities of associates and himself.²¹⁸⁵

1768. In evidence before the Commission, Ms Gobbo accepted that she became aware, as time went on, that it was the plan of Victoria Police to 'get [Mr Cooper] to roll and co-operate with police'.²¹⁸⁶
1769. On 26 September 2005, Mr Overland attended a Purana Taskforce weekly update meeting in which there was discussion of information supplied by Ms Gobbo, whom he recorded as having the registered number '3838'. This included reference to investigations taking place involving Mr Tony Mokbel.

²¹⁷⁸ Exhibit RC0275 Statement of Mr Sandy White, 1 August 2019, 20 [79]-[80], COM.0019.0004.0001 @.0020; Transcript of Mr Peter Smith, 11 September 2019, 6100-1, [TRN.2019.09.11.01.C [not yet published].

²¹⁷⁹ Exhibit RC0726 Statement of Detective Sergeant Craig Hayes, 25 July 2019, 4 [24], VPL.0014.0044.0001 at 0004.

²¹⁸⁰ Exhibit RC0464B, Longer Statement of Mr James (Jim) O'Brien, 14 June 2019, 1 [4], 10 [43], 11 [49], VPL.0014.0040.0001 @ 0001, .0010-11.

²¹⁸¹ Exhibit RC0281 ICR3838 (003), 26 September 2006, 16, VPL.2000.0003.1602; Transcript of Ms Nicola Gobbo, 6 February 2020, 13312-3, TRN.2020.02.06.01.P.

²¹⁸² Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, VPL.0100.0009.0001; Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 18 [83] – 19 [87], VPL.0014.0040.0001 @.0018-19; Exhibit RC0470 Operation Posse Commencement Briefing, 22 November 2005, VPL.0005.0096.0001.

²¹⁸³ Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, 3, VPL.0100.0009.0001 @.0003.

²¹⁸⁴ Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, 4, VPL.0100.0009.0001 @.0004.

²¹⁸⁵ Exhibit RC0467 Investigation Plan for Operation Posse, 17 November 2005, 4, VPL.0100.0009.0001 @.0004.

²¹⁸⁶ Transcript of Ms Nicola Gobbo, 6 February 2020, 13315-6, TRN.2020.02.06.01.P.

Mr Overland noted in his diary the need to manage Ms Gobbo as a source very carefully, and that Mr Purton was to be fully involved.²¹⁸⁷

1770. On 27 September 2005, Mr Overland met with Mr Purton who conveyed to him the information supplied by Ms Gobbo as a result of her debriefing by the SDU. This included that Mr Cooper may 'roll over', Mr Tony Mokbel was worried about Mr Bickley and the potential for the [REDACTED] [REDACTED] Mr Tony Mokbel. They discussed the development of the investigation strategy and the need to ensure that Ms Gobbo was not compromised under any circumstances.²¹⁸⁸
1771. On 4 October 2005, Mr Sandy White spoke with Mr McLean of the IMU about the potential for a 'supergrass' policy. It was determined that Ms Gobbo's registration would go to Mr McLean for inclusion on an encrypted database. Mr Sandy White then met with Mr Flynn for a full briefing in relation to Ms Gobbo and the plan [REDACTED] Mr Cooper. Mr Sandy White then met with Commander Moloney and provided a 'full briefing' in relation to Ms Gobbo.²¹⁸⁹
1772. At 9:30am on 5 October 2005 Mr Sandy White met with Mr Ian Thomas, Mr McLean, Mr McWhirter, Mr Kent Spry and Mr Glenn O'Dea. Later, Mr Sandy White briefed Mr Thomas regarding information received from Ms Gobbo and they discussed the need for documentation of decisions regarding the management of Ms Gobbo in the SML, and the need to determine which police members had been briefed about Ms Gobbo's role. Following that meeting, at approximately 3:30pm, a meeting took place between Mr Sandy White, Mr Moloney, Mr Biggin, Mr Thomas, Mr Hill, Mr Hardie, Mr Cruze and Mr Flynn and Ms Burrows. At the commencement of that meeting, it was agreed to brief the [REDACTED] and discuss tactical issues (regarding the proposal [REDACTED] [REDACTED] Operation Kayak tapes), following which management was excused.²¹⁹⁰ Mr Biggin's diary records that Ms Gobbo's value as a source was discussed and that a new taskforce was to be established under Mr O'Brien, comprising three teams.²¹⁹¹ [REDACTED] was then briefed on Ms Gobbo's motivation and tactical options were discussed. This included the viability of Mr Mansell [REDACTED] [REDACTED] and the risks that involved. It was noted by Mr Sandy White that the [REDACTED] the Operation Kayak tapes, therefore it needed to be [REDACTED]. Concern was expressed about Ms Gobbo being compromised if she was to be [REDACTED]. It was agreed that a [REDACTED] [REDACTED], would be preferable.²¹⁹² Following that meeting, [REDACTED] met with Mr Flynn and Ms Burrows to discuss the strategy [REDACTED] to Mr Cooper. It was proposed that [REDACTED], Mr Flynn and Ms

²¹⁸⁷ Exhibit RC0984 Mr Simon Overland diary, 26 September 2005, 511-2, RCMPI.0133.0001.0001 @.0511-0512.

²¹⁸⁸ Exhibit RC0984 Mr Simon Overland diary, 27 September 2005, 513-4, RCMPI.0133.0001.0001 @.0513-.0514.

²¹⁸⁹ Exhibit RC0370 Mr Sandy White diary, 4 October 2005, 4-6, VPL.2000.0001.0440 @.0443-.0445; see also Exhibit RC1327 Mr Danyne Moloney diary, 4 October 2005, 26, VPL.0005.0169.0001 @.0026.

²¹⁹⁰ Exhibit RC1552 Assistant Commissioner Robert Hill diary, 5 October 2005, 12, VPL.0005.0013.0892 @.0903.

²¹⁹¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 5 October 2005, 199, RCMPI.0075.0001.0001 @.0199.

²¹⁹² Exhibit RC0292 Mr Sandy White diary, 5 October 2005, 6-9, VPL.2000.0001.0440 @.0445-.0448.

Burrows would attend the Emerald Hotel and Mr Flynn [REDACTED] Mr Cooper and Ms Gobbo to determine if Mr Cooper would agree to assist police.²¹⁹³ Later that day, [REDACTED] separately updated Mr Moloney and Mr Thomas. Ultimately, the meeting at the Emerald Hotel did not proceed.

1773. On 11 October 2005, Mr O'Brien spoke with Detective Inspector Adrian White to discuss the need for an investigation plan for Operation Posse.²¹⁹⁴ Later that day, Mr Sandy White met with Mr McLean and delivered information reports to him. Mr Sandy White then met with Mr O'Brien who informed him of a taskforce being established for Operation Posse. Mr O'Brien told Mr Sandy White that he was unwilling to receive Information Reports until a secure directory had been established.²¹⁹⁵
1774. On 12 October 2005, Mr O'Brien briefed Mr Purton regarding the current situation regarding Mr Tony Mokbel and Operation Posse. Mr O'Brien told Mr Purton that Operation Posse would likely request further personnel in relation to the Operation Posse Investigation Plan.²¹⁹⁶ Mr Purton's note of the meeting confirms discussion regarding the AFP seeking evidence of a meeting between Mr Bickley and Mr Tony Mokbel and refers to Ms Gobbo having a second meeting with Mr Bickley and Mr Tony Mokbel two weeks previously, which members from the State Surveillance Unit observed.²¹⁹⁷
1775. On 13 October 2005, the SDU recorded in the SML that Ms Gobbo's plan for Mr Cooper [REDACTED] Mr Flynn could not proceed on a planned occasion, as Mr Cooper would have someone else with him at that time.²¹⁹⁸
1776. On 18 October 2005, Mr Black of the SDU was provided a full briefing on the status of Ms Gobbo's role as a human source, as he was to act as her co-handler with Mr Peter Smith.²¹⁹⁹ He was to be introduced to Ms Gobbo at their next meeting.
1777. On 20 October 2005, Mr O'Brien called Mr Sandy White to request to meet in relation to the risk assessment for the Operation Posse investigation plan (referred to above).²²⁰⁰ An entry in the SML the following day records that the meeting between Mr O'Brien and Mr Sandy White took place, and Mr Sandy White was provided a copy of the Operation Posse Investigation Plan and risk assessment. The SML entry noted that the plan was to be submitted to Mr Overland (who was leaving the country for an extended period the following day).²²⁰¹ After his meeting with Mr Sandy White, Mr O'Brien met with Mr Purton and left a copy of the Operation Posse Investigation Plan and risk assessment in Mr Purton's office. Later that day,

[REDACTED]

²¹⁹⁴ See Transcript of Mr Simon Overland, 17 December 2019, 11455, TRN.2019.12.17.01.P

²¹⁹⁵ Exhibit RC0292 Mr Sandy White diary, 11 October 2005, 18-20, VPL.2000.0001.0440 @.0457-.0459.

²¹⁹⁶ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 12 October 2005, 5, VPL.0005.0126.0001 @.0005.

²¹⁹⁷ Exhibit RC0109 Mr Terry Purton diary, 12 October 2005, 40-1, VPL.0005.0193.0218 @.0257-.0258.

²¹⁹⁸ Exhibit RC0284 SML3838, 13 October 2005, 4, VPL.2000.0001.9447 @.9450.

²¹⁹⁹ Exhibit RC0284 SML3838, 13 October 2005, 4, VPL.2000.0001.9447 @.9450; Exhibit RC0292 Mr Sandy White diary, 11 October 2005, 18-20, VPL.2000.0001.0440 @.0457-.0459.

²²⁰⁰ Transcript of Mr Simon Overland, 17 December 2019, 11456, TRN.2019.12.17.01.P

²²⁰¹ Exhibit RC0284 SML3838, 21 October 2005, 4, VPL.2000.0001.9447 @.9450.

Mr Purton told Mr O'Brien that Operation Posse was to proceed.²²⁰² Albeit he had no specific recollection, Mr Overland agreed that contemporary records logically suggested that he had been provided with the Investigation Plan and had approved it prior to his departure overseas.²²⁰³

1778. On 24 October 2005 Mr Sandy White met with Mr O'Brien who advised that the Operation Posse Investigation Plan had been approved and the taskforce was to commence within the next two weeks. Mr O'Brien requested that the SDU was not to disseminate information reports until the taskforce commenced and a secure intelligence directory was set up. Mr O'Brien also advised that Mr Tony Mokbel was to be arrested by the AFP the following day (which occurred).²²⁰⁴ Later that day, Mr Peter Smith updated Mr Sandy White that Ms Gobbo had met with her client, Mr Cooper, who was in hospital undergoing rehabilitation prior to his court case. Ms Gobbo advised as to Mr Cooper teaching others how to manufacture amphetamines.²²⁰⁵
1779. On 26 October 2005 Mr Sandy White briefed his OIC, Mr Cowlshaw, in relation to the use of Ms Gobbo as a human source and risks pertaining to her use. He said that the security measures needed to be formalised by the IMU.²²⁰⁶ Mr Cowlshaw's day book records this meeting, including his intention to ask Mr Reid to formalise a security policy.²²⁰⁷
1780. On 28 October 2005, Ms Gobbo met with the SDU for the fifth time. Mr Sandy White, Mr Peter Smith and Mr Black attended. The discussion was again wide-ranging and included information regarding Mr Tony Mokbel's recent arrest, Mr Cooper's illness and discussion concerning Solicitor 2. Seven information reports were disseminated following this meeting. During the meeting, the following exchange took place:²²⁰⁸

Mr Peter Smith: Yeah. I think I said to you last time if you wish to talk about anything like that we're more than happy to listen, but we're here in your interests as well, so you can...

MS Gobbo: I know. But I can say when that stuff gets privileged I'm - I can't.

Mr Peter Smith: Oh, that - that's right, that's fine, I got no problem with that.

Ms Gobbo: And things that are, you know, hearsay upon hearsay, what's nothing, completely - and it's fuckin' hearsay.

²²⁰² Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 21 October 2005, 6, VPL.0005.0126.0001 @.0006.

²²⁰³ Transcript of Mr Simon Overland, 21 January 2020, 12024-12025, 12028-12029, TRN.2020.01.21.01.P.

²²⁰⁴ Exhibit RC0284 SML3838, 24 October 2005, 4-5, VPL.2000.0001.9447 @.9450-.9451.

²²⁰⁵ Exhibit RC0284 SML3838, 24 October 2005, 4-5, VPL.2000.0001.9447 @.9450-.9451.

²²⁰⁶ Exhibit RC0292 Mr Sandy White diary, 26 October 2005, 45, VPL.2000.0001.0440 @.0484.

²²⁰⁷ Exhibit RC0513 Mr Douglas (Doug) Cowlshaw day book, 26 October 2005, 3, VPL.0100.0001.5942 @.5944.

²²⁰⁸ Exhibit RC0626b Transcript of conversation between Sandy White, Peter Smith, Black and Nicola Gobbo, 28 October 2005, 139-140, VPL.0005.0051.0336 @.0474-5.

Mr Peter Smith: But if - if you're happy - regardless of the privilege issue - - -

Ms Gobbo: Mm.

Mr Peter Smith: - - - you can make that call on your own without any assistance from us, no problem.

Ms Gobbo: Mm.

Mr Peter Smith: But if you're happy to tell us something that it was - was hearsay from someone or someone - - -

Ms Gobbo: Mm.

Mr Peter Smith: - - - I'd suggest you should tell us and let us worry about it.

Ms Gobbo: O.K. Well

Mr Peter Smith: Yeah. And if we know it's hearsay and third-hand and potentially unreliable that's fine. But who knows what small piece in a - in a much larger puzzle where that will -where that will fall into.

Ms Gobbo: Mm.

Mr Peter Smith: It may not.

Mr Black: You could

Mr Peter Smith: But if we - if we don't know it, we'd never know.

Mr Black: It could be

Mr Peter Smith: Yeah.

Mr Black: - - - for somebody else.

Mr Sandy White: Right. We know

Mr Peter Smith: Yeah.

Mr Sandy White: - - - and talk about what you want to talk about and - - -

Ms Gobbo: No. The privilege is different.

Mr Sandy White: Yeah.

Mr Peter Smith: No.

Mr Sandy White: Well we made that pretty clear

Mr Peter Smith: Yeah.

Mr Sandy White: That your privileged stuff

Ms Gobbo: Mm.

Mr Sandy White: But I don't want to put you in a situation where you might

Ms Gobbo: Well, I raised this the other day because the whole Cooper stuff thing is gunna cause a big problem. You know, I don't - I would not ever ask someone like him what they're doing, ever. I would never be exposed to it, he'd never tell me about it and I would never ask. And if he tried to tell me or started a conversation about it I'd cut him off. It's one thing to make assumptions about what people are doing, but it's another thing to be standing up in a court saying, "This person has done this and hasn't done that," and whatever and lying when you know different- - -

Mr Peter Smith: Mm.

Ms Gobbo: - - - and

Mr Peter Smith: Mm, mm.

Ms Gobbo: So you - that's why you don't ask as a lawyer. I know you might say it's turning a blind eye to it, but you don't ask, and you specifically don't let them tell you. The Cooper thing is gunna cause me big drama, because I can ask him anything and he'll tell me, but I don't wanna know his stuff. I mean, I - it might be useful to you but I don't wanna know it from the point of view of - - -

Mr Sandy White: Well, you could - - -

Ms Gobbo: Pardon?

Mr Sandy White: - - - you could withdraw from representing him because of a conflict like that - - -

Ms Gobbo: ...

Mr Sandy White: - - - for the greater good of telling us.

Ms Gobbo: Oh, that's, true, but why on earth would I do that?

Mr Peter Smith: Does he pay?

Ms Gobbo: He actually does pay, yeah, his solicitor does. Mm.

1781. It is clear from the above exchange that Mr Sandy White, Mr Peter Smith and Mr Black well-knew that Ms Gobbo could not act in Mr Cooper's best interests and it would be legally problematic for Ms Gobbo to continue to act for Mr Cooper while informing on him. That is the reason Mr Sandy White suggested Ms Gobbo consider withdrawing from representing Mr Cooper – in his view, so that she could continue to inform on him without such legal problems arising. Ms Gobbo made it very clear that she would continue to act on Mr Cooper's behalf.

1782. On 3 November 2005, a meeting occurred in Mr Overland's office between Mr Purton, Mr Adrian White and Mr O'Brien.²²⁰⁹ They discussed staffing and resources for Operation Posse. Following that meeting, Mr O'Brien convened a sub-officers meeting and advised staff in relation to personnel and resource issues in relation to Operation Posse which was to commence on 14 November 2005.
1783. On 14 November 2005, Mr White told Mr O'Brien that a decision had been made that only Mr Flynn, Mr Hayes and Ms Burrows were to go to the taskforce. Mr O'Brien was told he was to attend a briefing with the Assistant Commissioner at 10:00am the following morning.²²¹⁰
1784. On 15 November 2005, Mr O'Brien, Mr Flynn and others²²¹¹ attended the Assistant Commissioner's office and met with Mr Hill and Mr Purton (then acting Assistant Commissioner of Crime) to discuss the inception of Operation Posse. Following this meeting, Mr O'Brien returned to the office to organise furniture and computers for Operation Posse.²²¹²
1785. On 28 November 2005 the SDU conducted a Monthly Source Review of Ms Gobbo. It noted that specific tasking of Ms Gobbo was pending commencement of Operation Posse, that she remained high risk and the risk assessment was unchanged.²²¹³
1786. On 5 December 2005 Mr O'Brien met with Mr Overland, Mr Purton and Mr Blayney to discuss Operation Posse.²²¹⁴
1787. On 9 December 2005 Mr O'Brien met with Mr Sandy White, Mr Black and Mr Green of the SDU, in relation to Operation Posse, for which the SDU was providing intelligence obtained from Ms Gobbo. The SDU members informed Mr O'Brien, amongst other things, of Mr Tony Mokbel and Mr Luxmore cooking and Mr Cooper's current mobile number. Mr O'Brien then briefed the Operation Posse team. He then attended the 6th floor and spoke to Mr Biggin, Mr Cruze and Mr Glow in relation to resourcing. He then briefed Mr Purton regarding developments in Operation Posse. Mr Purton was to brief Mr Overland.²²¹⁵

Information Concerning Mr Cooper's Background, Circumstances and Activities

1788. Pursuant to the Purana Taskforce investigation plan, between September and December 2005, Victoria Police obtained extensive information from Ms

²²⁰⁹ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 3 November 2005, 6, VPL.0005.0126.0001 @.0006.

²²¹⁰ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 14 November 2005, 6, VPL.0005.0126.0001 @.0006.

²²¹¹ Mr Graham Evans, Ms Hantsis, Mr Rowe, Mr Hayes, Ms Burrows, Mr Johnston, Mr Upton, Mr Anderson and Mr Johns.

²²¹² Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 15 November 2005, 6, VPL.0005.0126.0001 @.0006.

²²¹³ Exhibit RC0284 SML3838, 28 November 2005, 7, VPL.2000.0001.9447 @.9453.

²²¹⁴ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 5 December 2005, 6, VPL.0005.0126.0001 @.0006.

²²¹⁵ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 9 December 2005, 7, VPL.0005.0126.0001 @.0007.

Gobbo concerning Mr Cooper's background, circumstances, and activities.²²¹⁶ Such information included:

- 1788.1. details of his mobile telephone numbers²²¹⁷
- 1788.2. details of persons with whom he associated (including members of the Mokbel family) and the nature of their relationships²²¹⁸
- 1788.3. details of the places he frequented²²¹⁹
- 1788.4. information about his residential address²²²⁰
- 1788.5. information about his financial affairs.²²²¹

Plans [REDACTED] Mr Cooper [REDACTED] Victoria Police

1789. During this period, Ms Gobbo suggested to her handlers (including Messrs Peter Smith and Black) that Mr Cooper might be a candidate for assisting or co-operating with police, and she discussed with her handlers how circumstances could be contrived to bring about such assistance.²²²² She

²²¹⁶ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4-5, VPL.2000.0003.1590-1; Exhibit RC0281 ICR3838 (002), 21 September 2005, 9-10, VPL.2000.0003.1595-6; Exhibit RC0281 ICR3838 (003), 26 September 2005, 15-16, VPL.2000.0003.1601-2; Exhibit RC0283 Information Report SID 273, 30 September 2005, VPL.2000.0003.8403; Exhibit RC0281 ICR3838 (004), 29 September 2005, 18-20, VPL.2000.0003.1604-1605; Exhibit RC0281 ICR3838 (004), 1 October 2005, 20-21, VPL.2000.0003.1606-1607; Exhibit RC0283 Information Report SID 281, 7 October 2005, VPL.2000.0003.8412; Exhibit RC0281 ICR3838 (005), 3 October 2005, 25-26, VPL.2000.0003.1611-12; Exhibit RC0281 ICR3838 (005), 5 October 2005, 26, VPL.2000.0003.1612; Exhibit RC0281 ICR3838 (005), 6 October 2005, 26-27, VPL.2000.0003.1612-1614; Exhibit RC0281 ICR3838 (005), 7 October 2005, 27-28, VPL.2000.0003.1613-1614; Exhibit RC0281 ICR3838 (005), 10 October 2005, 28, VPL.2000.0003.1614; Exhibit RC0281 ICR3838 (006), 12 October 2005, 29-31, VPL.2000.0003.1615-1617; Exhibit RC0281 ICR3838 (006), 20 October 2005, 36, VPL.2000.0003.1622; Exhibit RC0281 ICR3838 (007), 24 October 2005, 37-39, VPL.2000.0003.1623-1625, 1629-31; Exhibit RC0281 ICR3838 (007), 28 October 2005, 43-45, VPL.2000.0003.1629-1631; Exhibit RC0283 Information Report SID 291, 16 November 2005, VPL.2000.0003.8420; Exhibit RC0283 Information Report SID 292, 28 October 2005, VPL.2000.0003.8421; Exhibit RC0281 ICR3838 (008), 2 November 2005, 49-58, VPL.2000.0003.1635-1644; Exhibit RC0281 ICR3838 (008), 17 November 2005, 59, VPL.2000.0003.1645; Exhibit RC0283 Information Report SID 304, 25 November 2005, VPL.2000.0003.8430; Exhibit RC0281 ICR3838 (009), 27 November 2005, 63-65, VPL.2000.0003.1649-1651; Exhibit RC0283 Information Report SID 316, 12 December 2005, VPL.2000.0003.8436; Exhibit RC0281 ICR3838 (010), 30 November 2005, 68-74, VPL.2000.0003.1654-1660; Exhibit RC0283 Information Report SID 328, 19 December 2005, VPL.2000.0003.8446; Exhibit RC0281 ICR3838 (011), 8 December 2005, 77-79, VPL.2000.0003.1663-1665; Exhibit RC0281 ICR3838 (012), 10 December 2005, 80, 82, 85, 87-90, VPL.2000.0003.1666-1676; Exhibit RC0281 ICR3838 (013), 22 December 2005, 94-95, VPL.2000.0003.1680-81; Exhibit RC0281 ICR3838 (014), 25 December 2005, 99-107, VPL.2000.0003.1685-1694; Exhibit RC0283 Information Report SID 534-291205, 29 December 2005, VPL.2000.0003.8640; Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 15 [66], VPL.0014.0040.0001 @.0015; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 6 [34]-[36], VPL.0014.0042.0001 @.0006.

²²¹⁷ Exhibit RC0281 ICR3838 (003), 22, 23, 24, 26 September 2005, 15, VPL.2000.0003.1601; Exhibit RC0281 ICR3838 (011), 8 December 2005, 78, VPL.2000.0003.1664; Exhibit RC0283 Information Report SID328-081205, 19 December 2005, VPL.2000.0003.8446; Exhibit RC0281 ICR3838 (012), 13 December 2005, 85, VPL.2000.0003.1671; Exhibit RC0284, SML3838, 8 December 2005, 8, VPL.0005.0099.0001 @.0008; Exhibit RC0281 ICR3838 (012), 13 December 2005, 86, VPL.2000.0003.1672.

²²¹⁸ Exhibit RC0281, ICR3838 (001), 16 September 2005, 4-5, VPL.2000.0003.1587.

²²¹⁹ Exhibit RC0281, ICR3838 (008), 4 November 2005, 53, VPL.2000.0003.1635; Exhibit RC0283 Information Report SID 304, 25 November 2005, VPL.2000.0003.8430.

²²²⁰ Exhibit RC0281, ICR3838 (009), 27 November 2005, 64, VPL.2000.0003.1650; Exhibit RC0281, ICR3838 (012), 15 December 2005, 89, VPL.2000.0003.1675.

²²²¹ Exhibit RC0281, ICR3838 (009), 28 November 2005, 65, VPL.2000.0003.1651; Exhibit RC0283 Information Report SID319-281105, 16 December 2005, VPL.0016.0026.3501.

[REDACTED]

suggested that circumstances could be manufactured so that ‘Flynn [redacted] [Ms Gobbo] and Cooper whilst at dinner’.²²²³

1790. She was later ‘tasked’ by Mr Peter Smith to arrange such a [redacted] with Mr Cooper.²²²⁴ Organisation of such [redacted] appears to have been an ongoing project during this period,²²²⁵ and was referred to by police as a [redacted].²²²⁶ The plan, however, never materialised.²²²⁷

Tasking of Ms Gobbo in relation to Mr Cooper

1791. In addition, throughout this period, members of Victoria Police (including Messrs Peter Smith, Sandy White and Black) ‘tasked’ Ms Gobbo on numerous occasions to obtain specific information from Mr Cooper,²²²⁸ including about his drug manufacturing activities.²²²⁹ She was also repeatedly tasked to inform her handlers immediately of the details of any contact she had with Mr Cooper.²²³⁰

Provision of Specific Information about Mr Cooper’s Drug Activities

1792. Ms Gobbo did as she was tasked, and during this period, she provided her handlers with extensive information concerning Mr Cooper’s involvement in the manufacturing and trafficking of drugs,²²³¹ much of which was passed onto Operation Posse investigators,²²³² including Mr O’Brien.²²³³ For example:

- 1792.1. on 9 December 2005, Ms Gobbo informed Mr Black that Mr Milad Mokbel had come into possession of [redacted] litres of ketone, and that Mr

²²²⁴ Exhibit RC0281, ICR3838 (005), 3 October 2005, 25, VPL.2000.0003.1611

²²²⁵ See reference to the “previous DSU plan” in Exhibit RC0281, ICR3838 (008), 13 November 2005, 15 VPL.2000.0003.1637; Exhibit RC0281, ICR3838 (012), 13 December 2005, 88,

VPL.2000.0003.1674; See Exhibit RC0284, SML3838, 8 December 2005, 3–4, VPL.0005.0099.0001.

²²²⁶ Exhibit RC0284, SML3838, 5 December 2005, 3, VPL.0005.0099.0001; Transcript of Mr Peter Smith, 11 September 2019, 6101-2.

²²²⁷ Transcript of Mr Peter Smith, 11 September 2019, 6102.

²²²⁸ Exhibit RC0281, ICR3838 (005), 3 October 2005, 25, VPL.2000.0003.1611; Exhibit RC0281, ICR3838 (007), 28 October 2005, 45, VPL.2000.0003.1631; Exhibit RC0281, ICR3838 (011), 9 December 2005, 75, VPL.2000.0003.1661; Exhibit RC0281, ICR3838 (013), 22 December 2005, 94, VPL.2000.0003.1680; Exhibit RC0281, ICR3838 (013), 22 December 2005, 95, VPL.2000.0003.1681; Exhibit RC0281, ICR3838 (014), 25 December 2005, 99, VPL.2000.0003.1685; Exhibit RC0281, ICR3838 (014), 30 December 2005, 105, VPL.2000.0003.1691; Exhibit RC0281, ICR3838 (014), 31 December 2005, 106, VPL.2000.0003.1692.

²²²⁹ Exhibit RC0281, ICR3838 (011), 9 December 2005, 79, VPL.2000.0003.1665; Exhibit RC0281, ICR3838 (014), 30 December 2005, 105, VPL.2000.0003.1691.

²²³⁰ Exhibit RC0281, ICR3838 (013), 22 December 2005, 94-95, VPL.2000.0003.1680-81; Exhibit RC0281, ICR3838 (014), 31 December 2005, 106, VPL.2000.0003.1692.

²²³¹ Exhibit RC1177 Transcript of Proceedings, AB & EF v CD [2017] VSC 350, 27 February 2017, 248-249, COR.1000.0001.0355 @.0040-0041: Ms Gobbo accepting that towards the end of 2005 she “started to provide current and specific information about Cooper manufacturing drugs, acquiring precursor chemicals et cetera ...”.

²²³² Exhibit RC0281, ICR3838 (009), 27 November 2005, 63-64, VPL.2000.0003.1649-50; Exhibit RC0283 Information Report SID317-271105, 12 December 2005, VPL.2000.0003.8437; Exhibit RC0281, ICR3838 (011), 8-9 December 2005, 78-79, VPL.2000.0003.1664-65; Exhibit RC0283 Information Report SID323-091205, 19 December 2005, VPL.2000.0003.8442; Exhibit RC0283, Information Report SID331-301105, 27 December 2005, VPL.2000.0003.8448; Exhibit RC0281, ICR3838 (014), 31 December 2005, 106, VPL.2000.0002.1692.

²²³³ Exhibit RC0464 Statement of Mr James (Jim) O’Brien, 14 June 2019, 13 [59] – 15 [66], 16 [72]–[73], 19 [88]–[90], VPL.0014.0040.0001 @.0013-15, 0016, .0019.

Cooper had told him that, if he got some chemicals, Mr Cooper would manufacture amphetamine for him²²³⁴

1792.2. on 26 December 2005, Ms Gobbo informed Mr Black that Mr Cooper was 'either manufacturing methamphetamine or just about to commence production'²²³⁵

1792.3. on 29 December 2005, Ms Gobbo told her handlers that Mr Cooper would be commencing the drug manufacturing imminently and planned to establish the operation in the Preston area.²²³⁶

1793. In December 2005, the police commenced surveillance on Mr Cooper and interception of his telephone, as a part of Operation Posse.²²³⁷

January 2006 to April 2006

Further Information concerning Mr Cooper's Circumstances and Activities

1794. Ms Gobbo continued to inform on Mr Cooper to Victoria Police well into 2006, including by providing information concerning his:

1794.1. financial affairs and dealings²²³⁸

1794.2. associations with other persons of interest or suspects²²³⁹

1794.3. movements and travel²²⁴⁰

1794.4. telephone usage, and telephone numbers and those of his family members²²⁴¹

²²³⁴ Exhibit RC0281 ICR3838 (011), 9 December 2005, 78, VPL.2000.0003.1664.

²²³⁵ Exhibit RC0281 ICR3838 (014), 26 December 2005, 100, VPL.2000.0003.1686; Exhibit RC0283 Information Report, SID533-261205, 26 December 2005, VPL.2000.0003.8639.

²²³⁶ Exhibit RC0281 ICR3838 (014), 29 December 2005, 103, 105, VPL.2000.0003.1689, 1691: "NB: Investigators updated"; Exhibit RC0283 Information Report SID536-291205, 29 December 2005, VPL.2000.0003.8642.

²²³⁷ Exhibit RC0559 Operation Bendigo Legal Conflict Report on information supplied relation to the arrest of Cooper, 5 September 2014, 7 [27], COR.1000.0001.0455 @ 0008. It is likely, although based on Victoria Police's disclosure to the Royal Commission remains unconfirmed, that information provided by Ms Gobbo formed the basis of applications for a number of relevant telephone intercept warrants.

²²³⁸ Exhibit RC0281 ICR3838 (015), 4 January 2006, 110, VPL.2000.0003.1696; Exhibit RC0281 ICR3838 (016), 22 January 2006, 129, VPL.2000.0003.1715; Exhibit RC0281 ICR3838 (017), 1 February 2006, 140, VPL.2000.0003.1726.

²²³⁹ Exhibit RC0281 ICR3838 (015), 5 January 2006, 112, VPL.2000.0003.1698; Exhibit RC0281 ICR3838 (017), 9 February 2006, 147, VPL.2000.0003.1732-33; Exhibit RC0283 Information Report SID 373, 17 February 2006, VPL.2000.0003.8489; Exhibit RC0283, Information Report SID 374, 17 February 2006, VPL.2000.0003.8490.

²²⁴⁰ Exhibit RC0281 ICR3838 (015), 19 January 2006, 133, VPL.2000.0003.1699; Exhibit RC0281 ICR3838 (016), 15 January 2006, 123, VPL.2000.0003.1709; Exhibit RC0281 ICR3838 (025), 6 April 2006, 227, VPL.2000.0003.1813: ("D/S/S O'Brien advised re Cooper movements").

²²⁴¹ Exhibit RC0281 ICR3838 (017), 8 February 2006, 134, VPL.2000.0003.1732; (and see Exhibit RC0283, Information Report SID 372, 17 February 2006, VPL.2000.0003.8488; Exhibit RC0283, Information Report SID 342, 12 January 2006, VPL.2000.0003.8460 (This IR was forwarded to O'Brien and Spargo of Purana); Exhibit RC0281 ICR3838 (020), 2 March 2006, 173, VPL.2000.0003.1759 (and see Exhibit RC0283, Information Report SID 444, 1 March 2006, VPL.2000.0003.8557; Exhibit RC0281 ICR3838 (023), 16 March 2006, 192, VPL.2000.0003.1778 (NB "I/R not submitted re these numbers However, on 30/03/06 SPU Affidavit certified re this information); See Exhibit RC0281 ICR3838 (023), 18 March 2006, 194-5, VPL.2000.0003.1780-81 (and see Exhibit RC0283 Information Report SID 509, 24 April 2006, VPL.2000.0003.8611 ("D/S/S O'Brien Op Purana advised ..."); Exhibit RC0281 ICR3838 (023), 20 March 2006, 199, VPL.2000.0003.1785 ("D/S/S O'Brien Op Purana advised ...") (and see Exhibit RC0283, Information Report SID 545, 27 April 2006, VPL.2000.0003.8651; Exhibit RC0281

1794.5. psychological appointments²²⁴²

1794.6. place of residence²²⁴³

1794.7. motor vehicle.²²⁴⁴

Further Tasking in relation to Mr Cooper

1795. Throughout this period, Ms Gobbo continued to be 'tasked' by members of Victoria Police to advance its investigations.²²⁴⁵ In particular, Ms Gobbo was specifically tasked to assist in Operation Posse.²²⁴⁶ As part of this, the handlers were in constant contact with Purana Taskforce investigators, both passing on information as it came to them from Ms Gobbo,²²⁴⁷ and processing their specific requests for information from Ms Gobbo.²²⁴⁸ In evidence before the Commission, Mr Flynn accepted that members of the Purana Taskforce were 'keen to task [and] get as much information from Ms Gobbo as possible'.²²⁴⁹

1796. On 5 January 2006, Mr Peter Smith spoke with Mr Sandy White and then Mr O'Brien about the possibility of Mr Cooper's matters being adjourned. It was determined that Ms Gobbo would be provided with Mr O'Brien's number and told that he was Mr Flynn's supervisor who may agree to such a request in

ICR3838 (023), 21 March 2006, 202, VPL.2000.0003.1788 ("D/S/S O'Brien OP Purana advised"); Exhibit RC0281 ICR3838 (025), 5 April 2006, 341, VPL.2000.0003.1809.

²²⁴² Exhibit RC0281 ICR3838 (016), 25 January 2006, 133, VPL.2000.0003.1719; Exhibit RC0281 ICR3838 (017), 31 January 2006, 1 February 2006, 139- 140, VPL.2000.0003.1725-6 (NB "D/S/Sgt O'Brien Op Purana advised re Cooper Psychologist & SCSU confirmed"), ("appointment with psych ... today ... D/S/S O'Brien advised"); Exhibit RC0281 ICR3838 (025), 12 April 2006, 235, VPL.2000.0003.1821; Exhibit RC0281 ICR3838 (028), 20 April 2006, 253, VPL.2000.0003.1839.

²²⁴³ See, e.g., Exhibit RC0281 ICR3838 (018), 13 February 2006, 150, VPL.2000.0003.1736.

²²⁴⁴ See, e.g., Exhibit RC0281 ICR3838 (018), 13 February 2006, 150, VPL.2000.0003.1736; Exhibit RC0281 ICR3838 019, 21 February 2006, 160, VPL.2000.0003.1746; Exhibit RC0281 ICR3838 (020), 25 February 2006, 168, VPL.2000.0003.1754; Exhibit RC0281 ICR3838 (020), 26 February 2006, 169, VPL.2000.0003.1755; (Exhibit RC0283 Information Report SID 425, 26 February 2006, VPL.2000.0003.8538; Exhibit RC0281 ICR3838 (021), 4 March 2006, 176, VPL.2000.0003.1762; (Exhibit RC0283 Information Report SID 452, 4 March 2006, VPL.2000.0003.8565; Exhibit RC0281 ICR3838 (022), 11 March 2006, 184, VPL.2000.0003.1770 (and see Exhibit RC0283 Information Report SID 513, 11 March 2006, VPL.2000.0003.8613); Exhibit RC0281 ICR3838 (024), 2 April 2006, 217, VPL.2000.0003.1803; Exhibit RC0281 ICR3838 (025), 7 April 2006, 227, VPL.2000.0003.1813; Exhibit RC0281 ICR3838 (028), 18 April 2006, 251 VPL.2000.0003.1837, ("D/S/S O'Brien Op Purana advised").

²²⁴⁵ See, e.g., Exhibit RC0281 ICR3838 (014), 1 January 2006, 107 VPL.2000.0003.1693; Exhibit RC0281 ICR3838 (017), 2 February 2006, 143, VPL.2000.0003.1729; Exhibit RC0281 ICR3838 (023), 16 March 2006, 190-191 VPL.2000.0003.1776- 1777; Exhibit RC0281 ICR3838 (025), 9 April 2006, 229 VPL.2000.0003.1815; Exhibit RC0281 ICR3838 (026), 13 April 2006, 240, VPL.2000.0003.1826.

²²⁴⁶ Exhibit RC0281 ICR3838 (026), 12 April 2006, 237, VPL.2000.0003.1823.

²²⁴⁷ Exhibit RC0281 ICR3838 (025), 6 April 2006, 227 VPL.2000.0003.1813 ("D/S/S O'Brien advised re Cooper movements); Exhibit RC0281 ICR3838 (023), 18 March 2006, 194-5, VPL.2000.0003.1780-81, (and see Exhibit RC0283 Information Report, SID 509, 24 April 2006, VPL.2000.0003.8611) ("D/S/S O'Brien Op Purana advised ..."); Exhibit RC0281 ICR3838 (023), 20 March 2006, 99, VPL.2000.0003.1785, (and see Exhibit RC0283 Information Report SID 545, 27 April 2006, VPL.2000.0003.8651), ("D/S/S O'Brien Op Purana advised ..."); Exhibit RC0281 ICR3838 (023), 21 March 2006, 202 VPL.2000.0003.1788 ("D/S/S O'Brien OP Purana advised"); Exhibit RC0281 ICR3838 (025), 5 April 2006, 223 VPL.2000.0003.1809; Exhibit RC0281 ICR3838 (028), 18 April 2006, 251, VPL.2000.0003.1837, ("D/S/S O'Brien Op Purana advised"); Exhibit RC0281 ICR3838 (017), 31 January 2006, 139, VPL.2000.0003.1725; Exhibit RC0281 ICR3838 (017), 1 February 2006, 140, VPL.2000.0003.1726, (NB "D/S/Sgt O'Brien Op Purana advised re Cooper Psychologist & SCSU confirmed"), ("appointment with psych ... today ... D/S/S O'Brien advised").

²²⁴⁸ Exhibit RC0281 ICR3838 (024), 25 March 2006, 213, VPL.2000.0003.1799 ("... as per request of O'Brien"); Exhibit RC0281 ICR3838 (024), 30 March 2006, 218 VPL.2000.0003.1804, ("D/S/C O'Brien ... Requesting details of when Cooper is leaving Lab").

²²⁴⁹ Transcript of Inspector Dale Flynn, 4 October 2019, 7230, TRN.2019.10.04.01.C.

Mr Flynn's absence.²²⁵⁰ When spoken to, Ms Gobbo said she was of the view that Mr O'Brien detested her. She was told he was unaware of her status as a human source.²²⁵¹ Mr O'Brien recorded in his diary at 1:10pm that he had received intelligence from Mr Peter Smith originating from '3838', although recorded nothing about '3838' wanting to arrange a bail variation for Mr Cooper. At 3:10pm, he recorded in his diary that he returned a telephone call to 'solicitor Nicola Gobbo' in relation to the application to vary bail for Mr Cooper, to which he agreed.²²⁵²

1797. In a 16 January 2006 meeting between Mr O'Brien, Mr Overland, Mr Blayney and Mr Grant, the possibility of narrowing Operation Posse to the rolling of Mr Cooper was discussed.²²⁵³ Mr Blayney's notes of that meeting record that Mr Cooper was considered a possible 'weak link' which was consistent with the information Ms Gobbo had provided to the SDU.²²⁵⁴
1798. On 17 January 2006, Mr O'Brien met with Ms Burrows, Mr Rowe, Mr Graham Evans (Purana Taskforce/Operation Posse), Mr Sandy White, Mr Peter Smith (SDU) and Mr Cruze [REDACTED]. They agreed to an [REDACTED]. Discussions took place about surveillance regarding Mr Luxmore and the refocusing of Operation Posse to Mr Cooper and Mr Cvetanovski. Later, Mr O'Brien, Mr Spargo, Ms Burrows and Mr Rowe met with the OCE and briefed it as to the objectives of Operation Posse.
1799. On 30 January 2006, Mr O'Brien gave his weekly Purana weekly update to Mr Overland, Mr Blayney and Mr Purton.²²⁵⁵ At that meeting, Mr Overland approved Mr O'Brien to run two diaries.²²⁵⁶ Mr O'Brien's evidence was that while this was never implemented,²²⁵⁷ it was approved specifically relating to Ms Gobbo's role as a human source.²²⁵⁸ The intention was to run one diary for 'normal work' and another for 'source material', and so those looking at the primary diary would not see any material from, or relating to, Ms Gobbo. Mr O'Brien was not aware of other instances of this occurring.²²⁵⁹ It is noted that at about this time, generally the amount of detail recorded in Mr Overland's diaries appears to decrease.
1800. A number of further meetings, briefings and information sharing relevant to Operation Posse's focus on Mr Cooper occurred throughout January, February and March 2006, including:

²²⁵⁰ Exhibit RC0281 ICR3838 (015), 4 January 2006, 110, VPL.2000.0003.1696.

²²⁵¹ Exhibit RC0281 ICR3838 (015), 4 January 2006, 111, VPL.2000.0003.1697.

²²⁵² Exhibit RC0933 Mr James (Jim) O'Brien diary, 5 January 2006, 28-29, RCMP1.0053.0001.0003 @.0131; see also Exhibit RC0464 Statement of Mr James (Jim) O'Brien (long), 14 June 2019, 21 [98], VPL.0014.0040.0001.

²²⁵³ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 16 January 2006, 8, VPL.0005.0126.0001 @.0008.

²²⁵⁴ Exhibit RC0817 Mr John (Jack) Blayney diary, 16 January 2006, 3, VPL.0005.0156.0001 @.0003.

²²⁵⁵ Exhibit RC1752 Purana Weekly Update, 30 January 2006, VPL.0100.0012.0078.

²²⁵⁶ Exhibit RC1752 Purana Weekly Update, 30 January 2006, VPL.0100.0012.0078; Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5546-5547, TRN.2019.09.04.01 [not yet published].

²²⁵⁷ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5546-5547, TRN.2019.09.04.01 [not yet published].

²²⁵⁸ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5547, TRN.2019.09.04.01 [not yet published].

²²⁵⁹ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5547, TRN.2019.09.04.01 [not yet published].

- 1800.1. on 31 January 2006, Mr Purton was briefed about the status of a range of matters, including Purana. He recorded that there were meetings between Mr Tony Mokbel and Mr Karam and Mr Cooper²²⁶⁰
- 1800.2. on 14 February 2006, Mr Sandy White provided a briefing to Mr Moloney relation to Ms Gobbo, but not any other source²²⁶¹
- 1800.3. on 15 February 2006, Mr Biggin spoke to Mr Overland regarding Ms Gobbo. Mr Overland directed Mr Biggin that Ms Gobbo was to be protected at all costs.²²⁶² Mr Biggin's evidence was that Ms Gobbo's significant value to Operation Posse was one reason for this direction²²⁶³
- 1800.4. on 19 February 2006, Ms Gobbo told her handler, Mr Green, that Mr Cooper had sourced [REDACTED] litres of Ketone for a cook.²²⁶⁴ The relevant ICR and SML entries confirm that this information was passed to Mr O'Brien
- 1800.5. on [REDACTED] 2006, the day of Mr Cooper's [REDACTED], Ms Gobbo provided information to her handler, Mr Green, regarding Mr Cooper cooking. That information was passed to Mr O'Brien.²²⁶⁵ Ms Gobbo provided similar information on [REDACTED] March 2006, which was passed on to Mr O'Brien.²²⁶⁶

Provision of Specific Information about Mr Cooper's Drug Activities

1801. Pursuant to the tasking, between January and April 2006, Ms Gobbo provided Victoria Police with increasingly more specific and detailed information concerning Mr Cooper's drug activities,²²⁶⁷ much of which was

²²⁶⁰ Exhibit RC0109 Mr Terry Purton diary, 31 January 2006, 4, VPL.0100.0273.0001 @.0004.

²²⁶¹ Exhibit RC0305 Mr Sandy White diary, 14 February 2006, 224, VPL.0100.0096.0001 @.0224;

²²⁶² Exhibit RC1557 Mr Anthony (Tony) Biggin diary, 15 February 2006, VPL.0100.0029.1112 @.1141; Transcript of Mr Simon Overland, 17 December 2019, 11472, TRN.2019.12.17.01.P.

²²⁶³ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7477-79, TRN.2019.10.09.01 [not yet published].

²²⁶⁴ Exhibit RC0281 ICR3838 (015), 19 February 2006, 158, VPL.2000.0003.1744.

²²⁶⁵ Exhibit RC0284 SML3838, [REDACTED] 2006, 19, VPL.2000.0001.9447 @ [REDACTED]

²²⁶⁶ Exhibit RC0284 SML3838, [REDACTED] 2006, 19, VPL.2000.0001.9447 @ [REDACTED]

²²⁶⁷ Exhibit RC0281 ICR3838 (015), 3 January 2006, 109, VPL.2000.0003.1695, Exhibit RC0281 ICR3838 015, 4 January 2006, 110, VPL.2000.0003.1696, ("D/S/Sgt O'Brien Op Purana advised"); Exhibit RC0281 ICR 017, 9 February 2006, 147, VPL.2000.0003.1733 (and see Exhibit RC0283 Information Report SID 374, 19 February 2006, VPL.2000.0003.8490); Exhibit RC0281 ICR3838 (018), 10 February 2006, 149, VPL.2000.0003.1735 ("D/S/S O'Brien advised of above"); Exhibit RC0281 ICR3838 (019), 19 February 2006, 158, VPL.2000.0003.1744-1745, (and see Exhibit RC0283, Information Report SID 383, 19 February 2006, VPL.2000.0003.8497; Exhibit RC0281 ICR3838 (019), 23 February 2006, 162-163, VPL.2000.0003.1748 (and see Exhibit RC0283, Information Report SID 391, 23 February 2006, VPL.2000.0003.8506 (see also Exhibit RC0283, Information Report SID 392, 23 February 2006, VPL.2000.0003.8508; Exhibit RC0283, Information Report SID 390, 23 February 2006, VPL.2000.0003.8505; Exhibit RC0283, Information Report SID 396, 23 February 2006, VPL.2000.0003.8512); Exhibit RC0281 ICR3838 020, 24 February 2006, 166-7, VPL.2000.0003.1752-53, Exhibit RC0281 ICR3838 020, 25 February 2006, VPL.2000.0003.1753-54, Exhibit RC0281 ICR3838 020, 26 February 2006, 169, VPL.2000.0003.1755 (and see Exhibit RC0283, Information Report SID 447, 25 February 2006, VPL.2000.0003.8560); Exhibit RC0281 ICR3838 (021), 3 March 2006, 175, VPL.2000.0003.1761, Exhibit RC0281 ICR3838 (021), 4 March 2006, 176-77 ("JOB Purana updated"), VPL.2000.0003.1762-1763, Exhibit RC0281 ICR3838 (021), 5 March 2006, 177-78 ("JOB Purana updated") VPL.2000.0003.1764 (and see Exhibit RC0283, Information Report SID 453, 4 March 2006, VPL.2000.0003.8567; Exhibit RC0283 Information Report SID 455, 5 March 2006, VPL.2000.0003.8569; Exhibit RC0283 Information Report SID 458, 5 March 2006, VPL.2000.0003.8573); Exhibit RC0281 ICR3838 (022), 11 March 2006, 184-5, VPL.2000.0003.1770-

passed onto investigators of Operation Posse.²²⁶⁸ For example, according to Victoria Police records:

1801.1. on 3 January 2006, Ms Gobbo –

1801.1.1. 'suggest[ed] [to her handler, Mr Peter Smith] investigators should be following Cooper ... as [she believed] that he is currently involved in delivering gear this afternoon'²²⁶⁹

1801.1.2. informed her handler, Mr Peter Smith, that Mr Cooper believed that he was under police surveillance²²⁷⁰

1801.2. on 4 January 2006, she reported to her handler, Mr Peter Smith, that Mr Cooper had 'finished 'doing his thing' (ie: cooking amphetamines) and was out collecting money last night ...'²²⁷¹

1801.3. on 6 February 2006, she told her handler, Mr Peter Smith, that Mr Cooper 'is trying to get 50 litres of ketone ...'²²⁷²

1801.4. on 9 February 2006, Ms Gobbo told her handler, Mr Peter Smith, that Mr Cooper 'is going to do a cook' as part of a 'joint venture' involving members of the Mokbel family, and that he had recently had contact with 'chemical suppliers'²²⁷³

1801.5. on 10 February 2006, Ms Gobbo told her handler, Mr Peter Smith, that Mr Cooper 'needs [redacted] litres of ketone before next cook and has paid [redacted] for it', and that 'he has everything else required'²²⁷⁴

1771; Exhibit RC0281 ICR3838 (022), 14 March 2006, 186-8, VPL.2000.0003.1772-1774; Exhibit RC0281 ICR3838 (023), 16 March 2006, 190-2, (NB "D/S/S O'Brien Adv of above ...") VPL.2000.0003.1776-1778; Exhibit RC0281 ICR3838 (023), 21 March 2006, 200 (NB "D/S/S O'Brien Adv of above ...") VPL.2000.0003.1786; Exhibit RC0281 ICR3838 (024), 29 March 2006, 216, (NB "D/S/S O'Brien advised") VPL.2000.0003.1802; Exhibit RC0281 ICR3838 (024), 2 April 2006, 220 (NB "D/S/S O'Brien advised") VPL.2000.0003.1806; Exhibit RC0281 ICR3838 (025), 7 April 2006, 227, (NB "D/S/S O'Brien advised") VPL.2000.0003.1813; Exhibit RC0281 ICR3838 (025), 8 April 2006, 228, VPL.2000.0003.1814; Exhibit RC0281 ICR3838 (026), 12 April 2006, 237-8 (see at page 238, "Investigators: updated with all details") VPL.2000.0003.1823-1824; See also Exhibit RC0283 Information Report SID557-120406, 12 April 2006, VPL.2000.0003.8662 ("Verbally [disseminated] to Officer in Charge, Purana Task Force, D/A/I O'Brien – Operation Posse"); Exhibit RC0283 Information Report SID558-120406, 12 April 2006, VPL.2000.0003.8663 ("Verbally [disseminated] to Officer in Charge, Purana Task Force, D/A/I O'Brien – Operation Posse"); Exhibit RC0283 Information Report SID576-130406, 13 April 2006, VPL.2000.0003.8683; See Exhibit RC0281 ICR3838 (027), 14 March 2006, 243-44 ("J O'Brien from Purana updated"), VPL.2000.0003.1829-1830; Exhibit RC0281 ICR3838 (027), 16 March 2006, 246-47, VPL.2000.0003.1832-1833 (see also Exhibit RC0283 Information Report SID 726, 16 April 2006, VPL.2000.0003.8704, "A/DDI O'Brien, OP Purana advised verbally").²²⁶⁸ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 20 [96], 21 [98]-[101], 21 [103] – 22 [106], 22 [108] - 23 [111], 23 [114] – 24 [116], 24 [118]-[119], 25 [121]-[124], 26 [126]-[128], 27 [130]– 28 [137], 28 [141]-[143], 29 [146]-[166], VPL.0014.0040.0001 @.0020, 0021, 0022. 0023, 0024, 0025, 0026, 0027, 0028, 0029.²²⁶⁹ Exhibit RC0281 ICR3838 (015), 3 January 2006, 109, VPL.2000.0003.1695.²²⁷⁰ Exhibit RC0281 ICR3838 (015), 3 January 2006, 110, VPL.2000.0003.1696 ("D/S/Sgt O'Brien Op Purana advised").²²⁷¹ Exhibit RC0281 ICR3838 (015), 4 January 2006, 110, VPL.2000.0003.1696.²²⁷² Exhibit RC0281 ICR3838 (017), 6 February 2006, 143-4, VPL.2000.0003.1729-1730 ("D/S/S O'Brien adv.").²²⁷³ Exhibit RC0281 ICR3838 (017), 9 February 2006, 147, VPL.2000.0003.1733; Exhibit RC0283 Information Report SID 374, 17 February 2006, VPL.2000.0003.8490.²²⁷⁴ Exhibit RC0281 ICR3838 (018), 10 February 2006, 149, VPL.2000.0003.1735 ("D/S/S O'Brien advised of above").

- 1801.6. on 19 February 2006, she informed her handler, Mr Peter Smith, that Mr Cooper 'will be up and running now' and that he 'has ■ litres of Ketone and it is worth ■' ²²⁷⁵
- 1801.7. on 23 February 2006, she informed her handler, Mr Peter Smith, that Mr Cooper 'went to the site over the weekend and did part of the cook', and that he had ■ litres of chemicals' from Mr Milad Mokbel which he intended to 'convert ... into a precursor'. ²²⁷⁶ She also told Mr Peter Smith details to assist in identification of one of the 'lab site[s]' ²²⁷⁷
- 1801.8. on 24 February 2006, she told her handler, Mr Green, that Mr Cooper 'had worked out that ■ litres would make ■ and ■ litres would make ■', ²²⁷⁸ and that he would be 'cooking on Monday [27/02/06]' ²²⁷⁹
- 1801.9. on 25 February 2006, she told her handler, Mr Green, that Mr Cooper had 'a vacuum pump and other bits in his garage along with ■ litres of Phenyl Asthetic acid' ²²⁸⁰
- 1801.10. on 26 February 2006, she told her handler, Mr Green, that Mr Cooper was 'doing his thing ie. Cooking speed' ²²⁸¹
- 1801.11. on 3 March 2006, she expressed the view to her handler, Mr Green, that Mr Cooper was 'still cooking' ²²⁸²
- 1801.12. on 4 March 2006, she informed her handler, Mr Green, that Mr Cooper 'has a meeting at 9.00pm' in South Melbourne 'to get the ■ litres ...', ²²⁸³ Later, she told Mr Green that Mr Cooper gave Mr Horthy Mokbel 'product' the day before, ²²⁸⁴ and that he had 'cooked ■ litres/■ made 2 x ■ lots = 2 x ■ cooks' ²²⁸⁵
- 1801.13. on 14 March 2006, she informed her handler, Mr Green, that amphetamine 'product' made by Mr Cooper was provided to Mr

²²⁷⁵ Exhibit RC0281 ICR3838 (019), 19 February 2006, 158, VPL.2000.0003.1744; Exhibit RC0283 Information Report SID 383, 19 February 2006, VPL.2000.0003.8497.

²²⁷⁶ Exhibit RC0281 ICR3838 (019), 23 February 2006, 162, VPL.2000.0003.1748; Exhibit RC0283 Information Report SID391, 23 February 2006, VPL.2000.0003.8506; Exhibit RC0283 Information Report SID 392, 23 February 2006, VPL.2000.0003.8508; Exhibit RC0283 Information Report SID 390, 23 February 2006, VPL.2000.0003.8505.

²²⁷⁷ Exhibit RC0281 ICR3838 (019), 23 February 2006, 163, VPL.2000.0003.1749; Exhibit RC0283 Information Report SID 396, 23 February 2006, VPL.2000.0003.8512.

²²⁷⁸ Exhibit ICR3838 (020), 24 February 2006, 166, VPL.2000.0003.1752.

²²⁷⁹ Exhibit RC0281 ICR3838 (020), 24 February 2006, 167, VPL.2000.0003.1753.

²²⁸⁰ Exhibit RC0281 ICR3838 (020), 25 February 2006, 168, VPL.2000.0003.1754; Exhibit RC0283 Information Report SID 447, 25 February 2006, VPL.2000.0003.8560.

²²⁸¹ Exhibit RC0281 ICR3838 (020), 26 February 2006, 169, VPL.2000.0003.1755.

²²⁸² Exhibit RC0281 ICR3838 (021), 3 March 2006, 175, VPL.2000.0003.1761.

²²⁸³ Exhibit RC0281 ICR3838 (021), 4 March 2006, 176, VPL.2000.0003.1762 ("JOB Purana updated").

²²⁸⁴ Exhibit RC0281 ICR3838 (021), 4 March 2006, 176, VPL.2000.0003.1762 ("JOB Purana updated").

²²⁸⁵ Exhibit RC0281 ICR3838 (021), 4 March 2006, 177, VPL.2000.0003.1763; Exhibit RC0283 Information Report SID 453, 4 March 2006, VPL.2000.0003.8567; Exhibit RC0281 ICR3838 (021), 5 March 2006, 177-8, VPL.2000.0003.1763-1764; Exhibit RC0281 ICR3838 (021), 6 March 2006, 178, VPL.2000.0003.1764 ("JOB Purana updated"); Exhibit RC0283 Information Report SID 455, 5 March 2006, VPL.2000.0003.8569; Exhibit RC0283 Information Report SID 458, 5 March 2006, VPL.2000.0003.8573; Exhibit RC0281 ICR3838 (022), 11 March 2006, 191, VPL.2000.0003.1770.

Fred D'Amicio,²²⁸⁶ and that his 'next scheduled cook' would be on 19 March 2006²²⁸⁷

- 1801.14. on 16 March 2006, Ms Gobbo informed her handler, Mr Peter Smith, that –
- 1801.14.1. Mr Cooper's 'current lab is 'just around the corner'' from Regent St, Preston²²⁸⁸
- 1801.14.2. he would 'continue cooking' on the next day, 17 March 2006²²⁸⁹
- 1801.14.3. he 'gave details of chemicals and methods involved in cooking amphetamines ...'²²⁹⁰
- 1801.15. on 21 March 2006, she told her handler, Mr Peter Smith, that Mr Cooper was 'currently doing a Methyl Dioxy MDMA type cook'²²⁹¹
- 1801.16. on 29 March 2006, she told her handler, Mr Peter Smith, that Mr Cooper was 'half way through a cook' and that he is 'currently cooking for the Karam family, Milad Mokbel and Mr Agrum'²²⁹²
- 1801.17. on 2 April 2006, she told her handler, Mr Peter Smith, that Mr Cooper 'is going back to lab tonight'²²⁹³
- 1801.18. on 7 April 2006, Ms Gobbo informed her handler, Mr Peter Smith, that Mr Cooper 'has another ■ litre cook starting on Sunday [9/4/06] night'²²⁹⁴
- 1801.19. on 10 April 2006, Ms Gobbo conferred with Mr Cooper in chambers, before reporting to her handler, Mr Peter Smith, the 'full story' of his movements for the day, which included that he and Mr Cvetanovski 'went to the lab ... [and had] done the things needed to start cooking ...'²²⁹⁵
- 1801.20. on 12 April 2006, Ms Gobbo informed her handler, Mr Black, inter alia, that:
- 1801.20.1. Mr Cooper would be establishing a new amphetamine manufacturing laboratory in mid-April²²⁹⁶

²²⁸⁶ Exhibit RC0281 ICR3838 (022), 14 March 2006, 186, VPL.2000.0003.1772; Exhibit RC0283 Information Report SID 526, 4 March 2006, VPL.2000.0003.8629.

²²⁸⁷ Exhibit RC0281 ICR3838 (022), 14 March 2006, 187, VPL.2000.0003.1773.

²²⁸⁸ Exhibit RC0281 ICR3838 (023), 16 March 2006, 190, VPL.2000.0003.1776; Exhibit RC0281 ICR3838 (023), 16 March 2006, 192, VPL.2000.0003.1778.

²²⁸⁹ Exhibit RC0281 ICR3838 (023), 16 March 2006, 190, VPL.2000.0003.1776; (NB "No I/R submitted re Cooper, info direct to investigators").

²²⁹⁰ Exhibit RC0281 ICR3838 (023), 16 March 2006, 190, VPL.2000.0003.1776; (NB "No I/R submitted re Cooper, info direct to investigators").

²²⁹¹ Exhibit RC0281 ICR3838 (023), 21 March 2006, 200, VPL.2000.0003.1786; (NB "D/S/S O'Brien Adv of above ...").

²²⁹² Exhibit RC0281 ICR3838 (024), 29 March 2006, VPL.2000.0003.1802.

²²⁹³ Exhibit RC0281 ICR3838 (024), 2 April 2006, 220, VPL.2000.0003.1806; (NB "D/S/S O'Brien advised").

²²⁹⁴ Exhibit RC0281 ICR3838 (025), 7 April 2006, 227, VPL.2000.0003.1813; (NB "D/S/S O'Brien advised"); Exhibit RC0281 ICR3838 (025), 8 April 2006, 228, VPL.2000.0003.1814; Exhibit RC0281 ICR3838 (025), 9 April 2006, 229 VPL.2000.0003.1815; (Cooper "Will definitely be cooking tonight").

²²⁹⁵ Exhibit RC0281 ICR3838 (025), 10 April 2006, 230-31, VPL.2000.0003.1816-1817.

²²⁹⁶ Exhibit RC0281 ICR3838 (026), 12 April 2006, 237-8, VPL.2000.0003.1823-1824; (see at page 238, "Investigators: updated with all details"); See also Victoria Police SID557-120406, 12 April 2006,

- 1801.20.2. on 13 April 2006, he would be meeting associates at the Spearmint Rhino Club, King St, to 'receive cash and [REDACTED] litres of chemicals ... to assist ... with amphetamine manufacturing' ²²⁹⁷
- 1801.20.3. on 14 April 2006, he would 'commence manufacturing amphetamines ... in a clandestine laboratory' ²²⁹⁸
- 1801.21. on 13 April 2006, Ms Gobbo informed handlers that Mr Cooper's recent drug manufacturing had occurred 'in a business premises associated with a coffee machine repair business in High Street, Preston', ²²⁹⁹ and that the new laboratory was being 'established in a building being renovated' that was 'not a house' ²³⁰⁰
- 1801.22. in the early hours of 14 April 2006, after meeting Mr Cooper at a bar in the city, ²³⁰¹ Ms Gobbo provided her handler, Mr Green, with further information concerning his drug manufacturing, including that the laboratory was in a 'shop in Strathmore area ... near a primary school' ²³⁰²
- 1801.23. on 16 April 2006, Ms Gobbo provided further information to her handler, Mr Green, concerning Mr Cooper's drug manufacturing activities, including that he was 'under pressure' from members of the Mokbel family to 'work hard' and that he had purchased materials from Bunnings. ²³⁰³

Information Concerning the Discovery of the Strathmore Laboratory

1802. The provision of information from Ms Gobbo to Victoria Police concerning the relevant premises in Strathmore associated with the drug manufacturing, as set out above, was particularly significant.

VPL.2000.0003.8662 "Verbally [disseminated] to Officer in Charge, Purana Task Force, D/A/I O'Brien – Operation Posse").

²²⁹⁷ Exhibit RC0281 ICR3838 (026), 12 April 2006, 237-8; VPL.2000.0003.1823-1824; (see at page 238, "Investigators: updated with all details"); Exhibit RC0283 Information Report SID558-120406, 12 April 2006, VPL.2000.0003.8663 ("Verbally [disseminated] to Officer in Charge, Purana Task Force, D/A/I O'Brien – Operation Posse").

²²⁹⁸ Exhibit RC0281 ICR3838 (026), 12 April 2006, 238, VPL.2000.0003.1824 ("Investigators: updated with all details"); Exhibit RC0283 Information Report SID576-130406, 13 April 2006, VPL.2000.0003.8683.

²²⁹⁹ Exhibit RC0281 ICR3838 (026), 13 April 2006, 239, VPL.2000.0003.1825 (NB "Tasked: Gather intelligence on the location of Cooper's current laboratory"); See also Exhibit RC0283 Information Report SID577-130406, 13 April 2006, VPL.2000.0003.8684.

²³⁰⁰ Exhibit RC0281 ICR3838 (026), 13 April 2006, 240, VPL.2000.0003.1826 ("... Tasking ... require updates on all Cooper's movements ... intelligence on the clandestine laboratory ... Investigators: Updated with details"); Exhibit RC0283 Information Report SID576-130406, 13 April 2006, VPL.2000.0003.8683).

²³⁰¹ Exhibit RC0281 ICR3838 (027), 13 March 2006, 241, VPL.2000.0003.1827 ("Source has arranged to meet [Mr Cooper] at the Supper Club in Spring Street").

²³⁰² Exhibit RC0281 ICR3838 (027), 14 March 2006, 243-4, VPL.2000.0003.1829-1830 ("0118 J O'Brien from Purana updated"). Exhibit RC0283 Information Report SID847, 14 April 2006, VPL.2000.0003.8873.

²³⁰³ Exhibit RC0281 ICR3838 (027), 16 March 2006, 246-7, VPL.2000.0003.1832-1833; Exhibit RC0283 Information Report SID726, 16 April 2006, VPL.2000.0003.8704, "A/DDI O'Brien, OP Purana advised verbally".

1803. As a result of that intelligence, on 15 April 2006, Mr Flynn discovered the laboratory site in Strathmore.²³⁰⁴ Thereafter, Mr Flynn organised immediate surveillance on the property,²³⁰⁵ which captured Mr Cooper and others coming and going from the property.²³⁰⁶ On 21 April 2006, Victoria Police obtained a search warrant for the Strathmore premises and other properties.²³⁰⁷ The affidavit in support of the warrant application was sworn by Mr Flynn, before Mr O'Brien, and contained a substantial amount of information which had been provided to police by Ms Gobbo.²³⁰⁸
1804. According to Mr O'Brien, the information provided by Ms Gobbo, especially between 14 and 16 April 2006, led to 'a significant breakthrough' in the Operation Posse investigation, in that it allowed police to discover the location of the Strathmore lab.²³⁰⁹ He states: 'I do not know whether we would have located this lab without [Ms Gobbo's] information'.²³¹⁰
1805. In a similar vein, in evidence before the Commission, Mr Flynn accepted that Ms Gobbo was 'crucial' in Victoria Police identifying the Strathmore laboratory,²³¹¹ and that she provided information that resulted in Mr Cooper's arrest.²³¹²
1806. Ms Gobbo herself has previously accepted that the information she provided to Victoria Police about the Strathmore premises was instrumental in it having been located by Victoria Police.²³¹³ She accepted the same, in effect, before the Commission.²³¹⁴

Duplicity in the Use of Ms Gobbo as a Human Source

1807. During this period, as set out above, Ms Gobbo continued to act as Mr Cooper's lawyer. This did not, however, deter her from engaging in ongoing informing against him. Nor did it deter those members of Victoria Police, who knew of her ongoing role as Mr Cooper's (ostensible) lawyer, from using her as a source in relation to Mr Cooper. A stark example of the duplicity involved in Ms Gobbo's dual roles was her conduct on 13 April 2006, when:

²³⁰⁴ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 7 [39]–[41], VPL.0014.0042.0001 @.0007; Exhibit RC0733 Affidavit for search warrant of then Detective Acting Senior Sergeant Dale Flynn, 21 April 2006, 7, VPL.0005.0035.1204 @.1211; Exhibit RC0726 Statement of Detective Sergeant Craig Hayes, 25 July 2019, 6 [35] VPL.0014.0044.0001 @.0006.

²³⁰⁵ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 7 [41], VPL.0014.0042.0001 @.0007.

²³⁰⁶ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 8 [45], VPL.0014.0042.0001 @.0008.

²³⁰⁷ Transcript of Inspector Dale Flynn, 30 September 2019, 6794, TRN.2019.09.30.01.C.

²³⁰⁸ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 8 [46], VPL.0014.0042.0001 @.0008; Exhibit RC0733 Affidavit for search warrant of then Detective Acting Senior Sergeant Dale Flynn, 21 April 2006, 7, VPL.0005.0035.1204 @.1211; Transcript of Inspector Dale Flynn, 30 September 2019, 6794-6795, TRN.2019.09.30.01.C.

²³⁰⁹ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 29 [150] – 30 [154], VPL.0014.0040.0001 @.0029-.0030.

²³¹⁰ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 57 [307], VPL.0014.0040.0001 @.0057.

²³¹¹ Transcript of Inspector Dale Flynn, 1 October 2019, 6881, TRN.2019.10.01.01.C [note yet published].

²³¹² Transcript of Inspector Dale Flynn, 3 October 2019, 7183, TRN.2019.10.03.01 [not yet published].

²³¹³ *AB & EF v CD* [2017] VSC 351, [405]; Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 351, 27 February 2017, 323-24, COR.1000.0001.0356 @.102-103.

²³¹⁴ Transcript of Ms Nicola Gobbo, 6 February 2020, 13350, 13701, TRN.2020.02.06.01.P.

- 1807.1. in the morning, she told her handlers that she was 'frustrated that Police had not achieved any arrests and have not found any of Cooper's clandestine laboratories [sic]'²³¹⁵
- 1807.2. in the afternoon, she conferred with Mr Cooper and her instructing solicitor, Mr Tony Hargreaves, in relation to Mr Cooper's ongoing court proceedings.²³¹⁶
1808. Not only did Mr Cooper, her client, have no idea of the role Ms Gobbo was playing behind his back, but neither did her instructing solicitor, Mr Hargreaves.²³¹⁷

Manipulation of Mr Cooper by Ms Gobbo and Victoria Police

1809. During the period between January 2006 and Mr Cooper's arrest in April 2006, Ms Gobbo maintained a very close social and personal relationship with Mr Cooper. For example, she looked after and bonded with his children,²³¹⁸ and she frequently met with him for dinner.²³¹⁹ In evidence before the Commission, Mr Cooper described that, in early 2006, Ms Gobbo was 'basically [his] best friend'.²³²⁰
1810. Further, the relationship also appeared to involve, at least from Mr Cooper's perspective, romantic interest.²³²¹ According to Ms Gobbo, Mr Cooper's

²³¹⁵ Exhibit RC0281 ICR3838 (026), 13 April 2006, 239, VPL.2000.0003.1825 (The handlers responded by "reassure[ing] [Ms Gobbo] of Police efforts").

²³¹⁶ Exhibit RC0281 ICR3838 (027), 13 April 2006, 241, VPL.2000.0003.1827; Exhibit RC0281 ICR3838 (027), 15 April 2006, 245, VPL.2000.0003.1831 ("Source gave Cooper a list of things to do to prepare for his up coming [sic] plea ... ie. 25 character references"); Exhibit RC0281 ICR3838 (028), 19 April 2006, 253, VPL.2000.0003.1839 ("Cooper was to bring some references for use at pending plea hearing/adjournment.").

²³¹⁷ Exhibit RC0281 ICR3838 (038), 19 July 2006, 361, VPL.2000.0003.1947; Exhibit RC0281 ICR3838 (028) 23 April 2006, 261 VPL.2000.0003.1847.

²³¹⁸ Exhibit RC0281 ICR3838 (018), 13 February 2006, 151, VPL.2000.0003.1737; Exhibit RC0281 ICR3838 (019), 23 February 2006, 163, VPL.2000.0003.1749 ("Cooper's kids love the source as much as he does!!"); Exhibit RC0281 ICR3838 (020), 24 February 2006, 165, VPL.2000.0003.1751 (Ms Gobbo planning to meet with Mr Cooper and his children); Exhibit RC0281 ICR3838 (020), 25 February 2006, 167-168, VPL.2000.0003.1753-1754 (Ms Gobbo looking after Mr Cooper's children); Exhibit RC0281 ICR3838 (022), 11 March 2006, 184, VPL.2000.0003.1770 ("[Cooper's] kids have a shine for the source"); Exhibit RC0281 ICR3838 (023), 16 March 2006, 190, VPL.2000.0003.1776 ("Cooper & kids to meet HS for dinner tonight ..."); Exhibit RC0281 ICR3838 (023), 16 March 2006, 193, VPL.2000.0003.1779 (Ms Gobbo "states [that she] is bonding with Cooper's children"); Exhibit RC0281 ICR3838 (025), 11 April 2006, 233, VPL.2000.0003.1819 ("Over Easter HS is seeing ... Cooper and kids ..."); Exhibit RC0281 ICR3838 (027), 16 April 2006, 246, VPL.2000.0003.1832 ("Source believes that Cooper is at kids' house with eggs as she got an SMS from one of his kids detailing same."); Exhibit RC0281 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836 (reference to Mr Cooper's "kids affection for HS"); Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845 (After seeing Mr Cooper in custody, Ms Gobbo reported to police that he wanted her "to ring his kids ..."). Transcript of Mr Cooper, 31 October 2019, 8686, TRN.2019.10.31.01 [not yet published].

²³¹⁹ Transcript of Mr Cooper, 31 October 2019, 8686, TRN.2019.10.31.01 [not yet published].

²³²⁰ Transcript of Mr Cooper, 31 October 2019, 8667, TRN.2019.10.31.01 [not yet published].

²³²¹ Exhibit RC0281 ICR3838 (017), 9 February 2006, 148, VPL.2000.0003.1734 ("Cooper ... professed his undying love for HS, and was trying to kiss HS ..."); Exhibit RC0281 ICR3838 (018), 14 February 2006, 153, VPL.2000.0003.1739 ("... Cooper stating that he strong feelings for HS ..."; Exhibit RC0281 ICR3838 (019), 161, 22 February 2006, VPL.2000.0003.1747 ("Source detailed a Cooper conversation on an LD where he speaks about his fantasy with source"); Exhibit RC0281 ICR3838 (023), 21 March 2006, 201, VPL.2000.0003.1787 ("Cooper states he loves HS"); Exhibit RC0281 ICR3838 (027), 15 April 2006, 246, VPL.2000.0003.1832 ("Cooper told source 'I love you'"); Exhibit RC0281 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836 ("Cooper has told [others] ... that HS is his [redacted] [sic]"); Exhibit RC0281 ICR3838 (033), 312 (29.05.06) VPL.2000.0003.1898 ("He [Cooper] [redacted] [redacted]"); Transcript of Mr Cooper, 31 October 2019 8686-7, TRN.2019.10.31.01 [not yet published].

affection for her was 'widely known'.²³²² Ms Gobbo's handlers were well aware of this, and actively encouraged her to get 'closer' to Mr Cooper.²³²³ Indeed, at one point, the ICRs describe the strategy in 'keeping Cooper close' to Ms Gobbo was to employ 'the cocktease approach'.²³²⁴

1811. Indeed, Ms Gobbo and Victoria Police together exploited her closeness with Mr Cooper to advance the investigatory ends of Victoria Police. One clear example of this was in March 2006 when circumstances were contrived to have Ms Gobbo help to organise Mr Cooper's [REDACTED]. In early February 2006, after confirming the date of [REDACTED] 2006 for Mr Cooper's [REDACTED] party,²³²⁵ Mr Peter Smith tasked Ms Gobbo to '[a]ttempt to be R.S.V.P for Cooper ... in order to obtain names/phone numbers of attendees'.²³²⁶ She was subsequently successful in becoming responsible for the RSVPs,²³²⁷ and she undertook to police to 'keep details of all RSVP for intel'.²³²⁸ She also facilitated payment for the party.²³²⁹ In addition, she was in charge of organising a DJ, and even suggested to her handlers that they could arrange for the DJ [REDACTED].²³³⁰ That possibility was considered by members of Victoria Police (including Mr O'Brien), but not pursued.²³³¹
1812. In addition, Ms Gobbo willingly participated in a covert exercise involving her using a police camera to take photos of attendees at Mr Cooper's party to advance Victoria Police intelligence.²³³² The plan was first discussed on 10 March 2006, and after Ms Gobbo agreed it was a 'good idea', Mr Green collected the camera from Taskforce Purana and discussed the plan with Mr O'Brien.²³³³ On 12 March 2006, the day after the party took place, Ms Gobbo and Mr Green discussed the party and 'how well the camera's worked [sic]', and that the 'photo's [sic] taken are good quality'.²³³⁴ On 14 March 2006, Messrs Green and Peter Smith collected the camera(s)²³³⁵ from Ms

²³²² Exhibit RC0493 Transcript of meeting between Nicola Gobbo, Peter Smith and Sandy White, 22 April 2006, 132, VPL.0005.0104.0001 @.0132.

²³²³ Transcript of Ms Nicola Gobbo, 6 February 2020, 13331-2, TRN.2020.02.06.01.P

²³²⁴ Exhibit RC0281 ICR3838 (027), 13 April 2006, 241, VPL.2000.0003.1827 ("Source worried that the 'cock tease' approach will not last much longer at keeping Cooper close." Cf. Transcript of Proceedings, *AB & EF v CD* [2017] VSC 351, 27 February 2017, 230-235, COR.1000.0001.0355 @.0045: Ms Gobbo denying that she used the term "cock tease"; Exhibit RC0281 ICR3838 (016), 27 January 2006, 135, VPL.2000.0003.1721 ("HS has considered Cooper's recent lack of contact, and a possibility for this is that HS has "cock-teased" him one too many times"). Transcript of Mr Cooper, 31 October 2019, 8687-8, TRN.2019.10.31.01 [not yet published].

²³²⁵ Exhibit RC0281 ICR3838 (017), 1 February 2006, 140, VPL.2000.0003.1726.

²³²⁶ Exhibit RC0281 ICR3838 (017), 2 February 2006, 143, VPL.2000.0003.1729.

²³²⁷ Exhibit RC0281 ICR3838 (019), 23 February 2006, 163, VPL.2000.0003.1749; Exhibit RC0281 ICR3838 (021), 4 March 2006, 176, VPL.2000.0003.1762 ("Source has had the first RSVP Unknown male and Sam booked himself with Rose and another ... Source to keep details of all RSVP for intel include [REDACTED] source phone if needed").

²³²⁸ Exhibit RC0281 ICR3838 (021), 4 March 2006, 176, VPL.2000.0003.1762 ("Source has had the first RSVP Unknown male and Sam booked himself with Rose and another ... Source to keep details of all RSVP for intel include [REDACTED] source phone if needed").

²³²⁹ Exhibit RC0281 ICR3838 021, 6 March 2006, 179, VPL.2000.0003.1765; Exhibit RC0281 ICR3838 (023), 17 March 2006, 193, VPL.2000.0003.1779.

²³³⁰ Exhibit RC0281 ICR3838 (021), 6 March 2006, 179, VPL.2000.0003.1765; Exhibit RC0281 ICR3838 (021), 8 March 2006, 180, VPL.2000.0003.1766.

²³³¹ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 22 [104]–[105], VPL.0014.0040.0001 @.0022.

²³³² Exhibit RC0281 ICR3838 (022), 10 March 2006, 183, VPL.2000.0003.1769.

²³³³ Exhibit RC0281 ICR3838 (022), 10 March 2006, 183, VPL.2000.0003.1769.

²³³⁴ Exhibit RC0281 ICR3838 (022), 12 March 2006, 185, VPL.2000.0003.1771.

²³³⁵ It is unclear in the ICRs whether there were one or more cameras involved.

Gobbo.²³³⁶ On 20 March 2006, Ms Gobbo met with Messrs Green and Peter Smith and took them through the photos, with Ms Gobbo identifying several persons for the benefit of Victoria Police intelligence.²³³⁷

1813. Separately, on 16 March 2006, she suggested to Mr Peter Smith that she should be given a 'micro recorder for recording conversations with Cooper as cannot remember all details re chemical names etc.'²³³⁸ The handlers told her they would 'consider' the idea;²³³⁹ however, it appears that it did not progress any further.

Discussions about Potential Option of Manufacturing an Adjournment of Mr Cooper's Case

1814. In addition, Ms Gobbo and her handlers had several discussions about the possibility of manufacturing an adjournment of Mr Cooper's plea.²³⁴⁰ In particular:

1814.1. On 5 April 2006, Ms Gobbo reportedly suggested to handlers, inter alia, that if she 'was sick th[e] case would have to be adjourned', and she 'assure[d] [the handlers] that [she] can convince a Doctor of real requirement to be admitted to hospital'²³⁴¹

1814.2. On 7 April 2006, the ICRs record that Messrs Sandy White and Peter Smith had further discussions about the adjournment, and note: 'If Cooper matter [sic] is adjourned it is an advantage to investigation but Handler concerned re deceiving Court and HS to be advised not to do so if claiming reason is HS health.'²³⁴² In evidence before the Commission, Mr Peter Smith accepted that 'the plan of attack', on the part of Victoria Police and Purana Taskforce, was, in effect, to obtain an adjournment in order to keep Mr Cooper on bail in the community so that he would 'be able to cook and then ... be caught' by investigating police²³⁴³

1814.3. On 14 April 2006, Mr Green had a further discussion with Ms Gobbo concerning adjourning Mr Cooper's hearing. It appears that either Ms Gobbo or Mr Green raised the idea of Victoria Police arranging for a high-ranking member of Victoria Police to approach someone at the OPP to ask that the OPP approach 'the chief judges associate and explain that the crown prosecutor is unavailable'²³⁴⁴

²³³⁶ Exhibit RC0281 ICR3838 (022), 14 March 2006, 186, VPL.2000.0003.1772; Exhibit RC0281 ICR3838 (023), 16 March 2006, 191, VPL.2000.0003.1777.

²³³⁷ Exhibit RC0281 ICR3838 (023), 20 March 2006, 198-99, VPL.2000.0003.1784-1785; Exhibit RC0282 Transcript of conversation between Nicola Gobbo, Peter Smith and Green, 20 March 2006, VPL.0005.0076.0682.

²³³⁸ Exhibit RC0281 ICR3838 (023), 16 March 2006, 191, VPL.2000.0003.1777.

²³³⁹ Exhibit RC0281 ICR3838 (023), 16 March 2006, 191, VPL.2000.0003.1777.

²³⁴⁰ Exhibit RC0281 ICR3838 (024), 1 April 2006, 219, VPL.2000.0003.1805; Exhibit RC0281 ICR3838 (025), 5 April 2006, 225, VPL.2000.0003.1811; Exhibit RC0281 ICR3838 (025), 7 April 2006, 228, VPL.2000.0003.1814; Exhibit RC0281 ICR3838 (027), 14 March 2006, 244, VPL.2000.0003.1830; Exhibit RC0281 ICR3838 (028), 18 April 2006, 251, VPL.2000.0003.1837; Exhibit RC0281 ICR3838 (028), 19 April 2006, 253, VPL.2000.0003.1839; Exhibit RC0281 ICR3838 (030), 28 April 2006, 274, VPL.2000.0003.1860.

²³⁴¹ Exhibit RC0281 ICR3838 (025), 5 April 2006, 225, VPL.2000.0003.1811.

²³⁴² Exhibit RC0281 ICR3838 (025), 7 April 2006, 228, VPL.2000.0003.1814.

²³⁴³ Transcript of Mr Peter Smith, 11 September 2019, 6106. TRN.2019.09.11.01.C.

²³⁴⁴ Exhibit RC0281 ICR3838 (027), 14 April 2006, 244, VPL.2000.0003.1830.

1814.4. On 18 April 2006, the ICRs record a further discussion about the proposed adjournment between Mr Peter Smith and Ms Gobbo, as follows:²³⁴⁵

Discussed Cooper adjournment, told a high ranking member will discuss getting adj for Cooper because of ongoing investigation and nil mention of HS. HS says that the Prosecutor must say something like "Prosecutor is not available" or similar, says it must come from Prosecution side;

1814.5. Mr Peter Smith advised Mr Sandy White and Mr O'Brien of this discussion²³⁴⁶

1814.6. On 19 April 2006, Mr Overland and Mr O'Brien spoke with the DPP, Mr Coghlan about the possibility of getting an adjournment in Mr Cooper's case, amongst other matters. Mr Coghlan was told that the adjournment was wanted as there was 'a much bigger picture' at play²³⁴⁷

1814.7. On 28 April 2006, Mr Cooper's adjournment was fixed.²³⁴⁸ It appears, however, that the adjournment was ultimately obtained on legitimate grounds in light of Mr Cooper's arrest on 22 April 2006.²³⁴⁹

Provision of Advice from Ms Gobbo to Victoria Police on How to Get Mr Cooper 'to Roll'

1815. During the early part of 2006, and up until Mr Cooper's arrest on 22 April 2006, Ms Gobbo provided Victoria Police with advice about how police could get him 'to roll'.²³⁵⁰

1816. On 2 February 2006, Ms Gobbo reportedly suggested to Mr Peter Smith that Mr Cooper 'be targeted financially, [as] he is owed a ton of money', and identified him as a 'vulnerable' person.²³⁵¹ On 22 February 2006, she similarly suggested to Mr Green that '[i]f Cooper has no money he may talk'.²³⁵²

1817. On 18 April 2006, she told Mr Peter Smith that, in order 'to roll', Mr Cooper had 'to believe that others (Mokbels) have also been arrested, because of his fear of them ...'.²³⁵³ She also suggested that Victoria Police take a 'soft approach'.²³⁵⁴ She advised her handlers as to which police members should be used in getting Mr Cooper 'to roll', explaining that he 'has respect' and

²³⁴⁵ Exhibit RC0281 ICR3838 (028), 18 April 2006, 251, VPL.2000.0003.1837.

²³⁴⁶ Exhibit RC0281 ICR3838 (028), 18 April 2006, 252-253, VPL.2000.0003.1838-.1839.

²³⁴⁷ Exhibit RC0282 Transcript of conversation between Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 228-229, VPL.0005.0097.0011 @.0238-.0239; Exhibit RC0984 Mr Simon Overland diary, 19 April 2006, 263, VPL.0005.0264.0053 @.0315.

²³⁴⁸ Exhibit RC0281 ICR3838 (030), 28 April 2006, 274, VPL.2000.0003.1860.

²³⁴⁹ Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 351, 27 February 2017, 311, COR.1000.0001.0355 @.0103; See Transcript of Mr Cooper, 8691, TRN.2019.10.31.01 [not yet published].

²³⁵⁰ See, eg, use of the term "roll", at Exhibit RC0218 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836.

²³⁵¹ Exhibit RC0281 ICR3838 (017), 2 February 2006, 142, VPL.2000.0003.1728.

²³⁵² Exhibit RC0281 ICR3838 (019), 22 February 2006, 161, VPL.2000.0003.1747.

²³⁵³ Exhibit RC0281 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836.

²³⁵⁴ Exhibit RC0281 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836 Cf. Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 254 ff. COR.1000.0001.0356 at .0046 ff.

'says good things' about Mr Flynn, while also suggesting that they avoiding using certain other police members.²³⁵⁵ She said that she 'believe[d]' Mr Cooper will listen to her advice when arrested.²³⁵⁶ According to the relevant ICR, all of this information was immediately conveyed to Mr O'Brien.²³⁵⁷ Mr O'Brien's evidence was that he has no recollection, record, or belief of any such information being provided to him.²³⁵⁸

1818. On 20 April 2006, Ms Gobbo provided further advice to Messrs Sandy White, Peter Smith and Green about the most effective strategies that police could take to persuade Mr Cooper 'to roll' upon his arrest.²³⁵⁹

Meetings involving Members of Victoria Police on 9 March, 18 and 19 April 2006 in Preparation for Mr Cooper's Arrest

1819. On 9 March 2006, Messrs Sandy White and Green met with Ms Gobbo. During the conversation they discussed Ms Gobbo's attitude to further representation of Mr Cooper (and Mr Karam), should he be arrested:

MR GREEN: I have got a - a bit of a concern, though. If Cooper was to get arrested - - -

MS GOBBO: Yeah.

MR GREEN: - - - he's going to be calling you, isn't he?

MS GOBBO: Yes. He will not call anyone else.

MR GREEN: How's that going to work?

MS GOBBO: What do you mean?

MR GREEN: Well, how are you going to be able to represent him?

MS GOBBO: What do you mean?

MR GREEN: Well, won't there be a conflict of interest there?

MS GOBBO: What conflict? He'll be pleading guilty. What difference does it make?

MR GREEN: Well, what if it was Rob, then? 'Cause he probably wouldn't plead guilty.

MS GOBBO: That's a different story.

MR GREEN: Yeah. Would he ring you - - -

²³⁵⁵ Exhibit RC0281 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836.

²³⁵⁶ Exhibit RC0281 ICR3838 (028), 18 April 2006, 250, VPL.2000.0003.1836.

²³⁵⁷ Exhibit RC0281 ICR3838 (028), 18 April 2006, 251, VPL.2000.0003.1837; Exhibit RC0281 ICR3838 (028), 19 April 2006, 252, VPL.2000.0003.1838: "Controller Sandy White and Peter Smith confer with Op Purana D/S/S O'Brien and D/S Flynn, discuss tactics for post arrest, based on HS information, regarding co-operation and possible [REDACTED] Cooper. Points to be included in I/V plan by O'Brien"). Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 32 [162]-[164], VPL.0014.0040.0001 @.0032.

²³⁵⁸ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 32 [164], VPL.0014.0040.0001 @.0032.

²³⁵⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White and Peter Smith, 20 April 2006, 260-70, VPL.0005.0097.0011 at .0270-80.

MS GOBBO: Yes.

MR GREEN: - - - if he was arrested?

MS GOBBO: Yep. All of them will, they won't - - -

MR GREEN: Yeah.

MS GOBBO: - - - ring anyone else.²³⁶⁰

1820. Ms Gobbo's conflict of interest, and possible effects to the proper administration of justice, were plain to Mr Green and Mr Sandy White.
1821. On 18 April 2006, Messrs Flynn, Kelly, and O'Brien, along with Ms Gobbo's controller, Mr Sandy White, participated in a briefing in relation to Operation Posse in which they discussed 'a strategy' for the approach to the interview of Mr Cooper upon his forthcoming arrest.²³⁶¹
1822. On 19 April 2006, a further meeting was conducted in preparation for the arrest of Mr Cooper, this time between Messrs Sandy White and Peter Smith of the SDU and Messrs O'Brien and Flynn of Operation Posse.²³⁶² The ICRs record that there was 'discuss[ion] [of] tactics for post arrest, based on [Ms Gobbo's] information, regarding co-operation and possible [REDACTED] Cooper', and note '[p]oints to be included in I/V plan by O'Brien'.²³⁶³
1823. Further, on 19 April 2006, Mr Overland and Mr O'Brien met with Mr Coghlan to discuss a 'plea deal' that could be offered to Mr Cooper upon his forthcoming arrest.²³⁶⁴

Meeting between Ms Gobbo and Handlers on 20 April 2006 in Preparation for Mr Cooper's Arrest

1824. On 20 April 2006, Ms Gobbo met in person with Mr Sandy White, her controller, as well as two of her handlers, Messrs Peter Smith and Green.²³⁶⁵ The meeting went for several hours, during which they discussed, inter alia, the approach that would be taken by Ms Gobbo and Victoria Police upon Mr Cooper's imminent arrest.²³⁶⁶ The following passages are particularly significant:²³⁶⁷

²³⁶⁰Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Green and Sandy White, 9 March 2006, 106-107, VPL.0005.0051.1281 @.1386 and @.1387.

²³⁶¹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 7 [42], 8 [42]-[43], VPL.0014.0042.0001 @.0007 and @.0008.

²³⁶² [REDACTED]; Exhibit RC0281 ICR3838 (028), 19 April 2006, 252, VPL.2000.0003.1838; [REDACTED].

²³⁶³ Exhibit RC0281 ICR3838 (028), 19 April 2006, 252, VPL.2000.0003.1838; Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 32 [162]-[163], VPL.0014.0040.0001 @.0032.

²³⁶⁴ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 32-33 [165], VPL.0014.0040.0001 @.0032 and @.0033.

²³⁶⁵ Exhibit RC0281, ICR3838 (028), 20 April 2006, 253-4, VPL.2000.0003.1839 and VPL.2000.0003.1840; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, VPL.0005.0097.0011.

²³⁶⁶ See Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 252-271, VPL.0005.0097.0011 @.0262-0281.

²³⁶⁷ The below is from Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 256-8, VPL.0005.0097.0011 @.0266 -0268.

MR SANDY WHITE: *But, you know, the point is [Mr Cooper] could get arrested at any tick of the clock either by design or by accident.*²³⁶⁸

[...]

And the first thing he's gunna do we would assume is that he would ring you.

MS GOBBO: *He'll ring no-one else but me.*

[...]

MR SANDY WHITE: *...[Mr Cooper] will be afforded every opportunity to speak to a solicitor and obviously that's gunna be you and everything will just go on as it normally would.*²³⁶⁹

MS GOBBO: *Mm.*

MR SANDY WHITE: *He would have an expectation that you'd represent him.*

MS GOBBO: *Yes.*

[...]

MR SANDY WHITE: *How does that work?*

MS GOBBO: *If?*

MR SANDY WHITE: *If you represent him whilst at the same time you've been instrumental in his apprehension.*²³⁷⁰

MS GOBBO: *Yeah [...] that's one of the things that keeps me up at night.*

MR SANDY WHITE: *Have you got a plan how you're gunna manage that or –*

MS GOBBO: *What's the big deal? You're not gunna tell him*

MR SANDY WHITE: *No, we're not but - - -*

MS GOBBO: *Nor am I. I don't really feel like being dead this month [...]*

MR SANDY WHITE: *Yeah, see, I'm not - I'm not thinking that you're gunna be compromised. I'm just wondering - - -*

MS GOBBO: *How I'm gunna deal with it myself.*

MR SANDY WHITE: *Ethically - - -*

MR GREEN: *Or practically.*

²³⁶⁸ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 256, VPL.0005.0097.0011 @.0266.

²³⁶⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 257, VPL.0005.0097.0011 @.0267.

²³⁷⁰ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 258, VPL.0005.0097.0011 @.0268.

MR SANDY WHITE: *It's the same – it's the same issue because he's not gunna find out I suppose but - - -*

MS GOBBO: *Morally what you're asking.*

MR SANDY WHITE: *Yeah, and it's a problem more for you than us but - - -*

MS GOBBO: *You don't care.*

MR SANDY WHITE: *Well - - -*

MS GOBBO: *Like, you care about what I'm thinking but you don't care about from his point of view. True?*

MR SANDY WHITE: *Well, we care about the position that we are putting you in. Granted you're the - you're the master of your own destiny*

[...]

MR GREEN: *What – what would be the best practical way?²³⁷¹*

MS GOBBO: *He needs to have it in his mind before he gets back to the police station, back to St Kilda Road.*

MR PETER SMITH: *Do you reckon?*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *What, that he can save himself?*

MS GOBBO: *That he's fucked.*

[...]

But he should know he's totally completely fucked.

MR PETER SMITH: *With evidence at this stage.²³⁷²*

MS GOBBO: *Yeah.*

[...]

MR SANDY WHITE: *Look, purely a technical point of view, if – if you talk to [Mr Cooper] and give him legal advice before he's interviewed and he makes a confession - and I'm speaking theoretically here, right.²³⁷³*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *O.K. I'm not saying this is gunna happen.*

MS GOBBO: *Mm'hm.*

²³⁷¹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 262, VPL.0005.0097.0011 @.0272.

²³⁷² Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 263, VPL.0005.0097.0011 @.0273.

²³⁷³ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 272, VPL.0005.0097.0011 @.0282.

MR SANDY WHITE: But wouldn't - wouldn't it be the case down the track that a defence barrister could argue, well, the advice that he got prior to participating in the record of interview was not impartial because it was done on behalf of the police by a person that was acting for the police.

MS GOBBO: Who in the fuck is gunna say that?

MR SANDY WHITE: It's a theoretical question, right. It's not - I'm trying to

MS GOBBO: anybody say that? Why would anyone say that?

MR SANDY WHITE: No-one's gunna say that but I'm trying to understand what - the conflict of interest area is not something that we ever deal with, all right, for you and it's - I mean, some people could put up an argument that a person who is a barrister perhaps could never help the police and still represent the person that she's helping the police with. So I'm just trying to get my head around this. Could you - maybe it's even pointless talking about it because you might actually think I'm going

MS GOBBO: Probably but what's the real point?

MR SANDY WHITE: Forget it. I'm just ---

MS GOBBO: No, no, no, what's the real point?

MR PETER SMITH: Just the general ethics of the whole situation.

MS GOBBO: The general ethics of all of this is fucked.²³⁷⁴

1825. It is submitted that the above passages establish that, as of 20 April 2006 (just two days prior to Mr Cooper's arrest), Ms Gobbo and relevant members of Victoria Police were knowingly engaged in an improper deception on Mr Cooper and a manipulation of his legal rights and interests. In particular, the passages demonstrate that:

- 1825.1. there was a common recognition that Ms Gobbo had been 'instrumental' in Victoria Police arriving at the position where Mr Cooper's arrest was imminent and founded upon strong evidence
- 1825.2. there was a common expectation on the part of Ms Gobbo and her police handlers that she would be called upon to act for Mr Cooper upon his arrest, and would do so
- 1825.3. there was a common comprehension that the 'ethics of all of this was fucked'
- 1825.4. despite the foregoing, there was a common expectation and intention that 'all of this' would be deliberately concealed (by both

²³⁷⁴ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 273, VPL.0005.0097.0011 @.0283.

Ms Gobbo and Victoria Police) from Mr Cooper and the world at large.

1825.5. During the same conversation, Ms Gobbo provided advice on the best way to get Mr Cooper to talk during his record of interview, including:

1825.5.1. being forceful with him would not work²³⁷⁵

1825.5.2. that before he got back to St Kilda Road Police Station 'he should know he's totally completely fucked'²³⁷⁶

1825.5.3. he needed to be allowed to chain-smoke.²³⁷⁷

1826. On the morning of 21 April 2006, Mr Peter Smith advised Mr O'Brien as to what occurred during the meeting with Ms Gobbo the previous night.²³⁷⁸

Conduct of Ms Gobbo and Victoria Police upon Mr Cooper's Arrest on 22 April 2006

1827. On 22 April 2006, Phase One of Operation Posse was executed. The document entitled 'Purana Task Operation Posse Phase One Operation Order' demonstrates the significance of information implicating Mr Cooper which was supplied by his lawyer, Ms Gobbo.²³⁷⁹

1828. The Operation Order nominated the Command team as Detective Superintendent Grant as the Operations Commander, Mr O'Brien as the Forward Commander, Mr Ryan as the Deputy Forward Commander and Mr Flynn as the Investigation Leader.²³⁸⁰ The Operations Commander was not necessarily someone present during the operation, but rather was to be updated. Operational decisions, such as the call to move in to arrest targets, was something within the discretion of Mr O'Brien. Mr Ryan remained at the Purana office co-ordinating matters during the events of the day.

Police Give Ms Gobbo Notice in Advance of Mr Cooper's Arrest; and the Common Expectation of the Role she would Play as his (Ostensible) Lawyer

1829. On the morning of 22 April 2006, Mr O'Brien advised Mr Peter Smith that Mr Cooper's arrest was imminent, and that he 'needs to be appraised of any contact by Cooper immediately'.²³⁸¹ Mr Peter Smith promptly conveyed this information to Ms Gobbo, and asked her to 'immediately advise Handler re any contact by Cooper'.²³⁸²

²³⁷⁵ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 266, VPL.0005.0097.0011 @.0276.

²³⁷⁶ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 262, VPL.0005.0097.0011 @.0272.

²³⁷⁷ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 270, VPL.0005.0097.0011 @.0280.

²³⁷⁸ Exhibit RC0486 Mr Peter Smith diary, 21 April 2006, 192, RCMP1.0053.0001.0008 @.0192.

²³⁷⁹ Exhibit RC1751 Purana Taskforce, Operation Posse, Phase One, Operation Order, execution date to be determined, VPL.0099.0117.0289 @.0293-.0300.

²³⁸⁰ Exhibit RC1751 Purana Taskforce, Operation Posse, Phase One, Operation Order, execution date to be determined, VPL.0099.0117.0289 @.0293-.0300.

²³⁸¹ Exhibit RC0281 ICR3838 (028), 22 April 2006, 258, VPL.2000.0003.1844.

²³⁸² Exhibit RC0281 ICR3838 (028), 22 April 2006, 258, VPL.2000.0003.1844.

1830. It is clear that the handlers and Ms Gobbo continued to share a common expectation that she would attend the St Kilda Road Police Station as Mr Cooper's (ostensible) lawyer following his arrest. During their morning conversation, at 9.23am, Mr Peter Smith forewarned Ms Gobbo that she [REDACTED] today at St Kilda Road if arrests occur', and instructed her 'to [REDACTED] unless prearranged meeting'.²³⁸³ Later, at 12.30pm, Ms Gobbo is recorded as 'waxing ironic re imminent Cooper arrest and that [she] won't get paid for representing him' (emphasis added).²³⁸⁴

Chronology of Circumstances surrounding Mr Cooper's Arrest

1831. The chronology of circumstances surrounding Mr Cooper's arrest on 22 April 2006 may be summarised as follows:

1831.1. At approximately 2:21pm on 22 April 2006, Mr Cooper and Mr Agrum were arrested at the Strathmore Premises.²³⁸⁵ Upon his arrest, Mr Flynn informed Mr Cooper of his rights to contact a legal practitioner, and he responded by asking to contact Ms Gobbo.²³⁸⁶ Mr Cooper was not, however, permitted to make any phone call at that point, apparently in order to avoid compromising the ongoing investigation.²³⁸⁷ Likewise, when Mr Agrum was given his caution and rights by Mr Kelly, he requested Ms Gobbo be contacted as his legal representative.²³⁸⁸

1831.2. At 2:52pm, Mr O'Brien updated Mr Grant as to the arrest of Mr Cooper and Mr Agrum. At 2:54pm, Mr Grant updated Mr Overland.²³⁸⁹

1831.3. At 3:03pm, Mr O'Brien informed Mr Peter Smith of Mr Cooper's arrest.²³⁹⁰

1831.4. At 3:04pm, Mr Peter Smith contacted Ms Gobbo and advised her that Mr Cooper had been arrested.²³⁹¹ Mr Peter Smith also instructed Ms Gobbo 'to [REDACTED] if sights at [St Kilda Rd police station], told to [REDACTED] and will meet [REDACTED] away from building'.²³⁹²

²³⁸³ Exhibit RC0281 ICR3838 (028), 22 April 2006, 258, VPL.2000.0003.1844.

²³⁸⁴ Exhibit RC0281 ICR3838 (028), 22 April 2006, 258, VPL.2000.0003.1844.

[REDACTED]

²³⁸⁹ Exhibit RC1562 Mr Richard Grant diary, 22 April 2006, 50, RCMP1.0126.0001.0011 @.0050.

²³⁹⁰ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 34 [171], VPL.0014.0040.0001, @.0034; Exhibit RC0281 ICR3838 (028), 22 April 2006, 258-9, VPL.2000.0003.1844 @.1845.

²³⁹¹ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²³⁹² Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

- 1831.5. Mr Cooper was then conveyed to St Kilda Road Police Station.²³⁹³
- 1831.6. At approximately 4:10pm, Mr Flynn and Mr Kelly facilitated telephone contact between Mr Cooper and Ms Gobbo, and Mr Agrum and Ms Gobbo.²³⁹⁴ Immediately after, Ms Gobbo contacted Mr Peter Smith and told him that she had been 'contacted by investigators, [and] advised that Cooper and Mr Agrum in custody, both asking for [her]'.²³⁹⁵ Ms Gobbo informed Mr Peter Smith that she was *en route* to the St Kilda Road Police Station, and would arrive within 10 minutes.²³⁹⁶ Mr Peter Smith observed that Ms Gobbo 'seems happy re arrests, and asked the question 'Who's next?'.²³⁹⁷
- 1831.7. Between 4:14pm and 4:19pm, Mr Cooper was interviewed by members of Victoria Police, namely Mr Flynn and Ms Anne Farer, during which he made no comment.²³⁹⁸ Mr Agrum likewise gave a 'no comment' interview.
- 1831.8. At 4:25pm, Ms Gobbo arrived at the St Kilda Road Police Station.²³⁹⁹ In evidence before the Commission, Mr Flynn described Ms Gobbo's attendance at the station to see Mr Cooper as 'complex', given that he 'knew that she was the person who had told police that [Mr Cooper] was committing the crime for which he had just been arrested'.²⁴⁰⁰ Notwithstanding this, neither Mr Flynn nor any other member of Victoria Police took any preventative or remedial action. No legal advice was sought, and the true circumstances of the collusion between Ms Gobbo and Victoria Police were not disclosed to Mr Cooper.²⁴⁰¹ Under cross-examination, Mr Flynn accepted that, with the benefit of hindsight, he could have taken action, such as: raising the issues with Ms Gobbo;²⁴⁰² disclosing the issues directly to Mr Cooper;²⁴⁰³ reporting the issues to superior officers, including Mr O'Brien;²⁴⁰⁴ and seeking legal advice within Victoria Police.²⁴⁰⁵ This reflects Mr Flynn's

²³⁹³ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 34 [172], VPL.0014.0040.0001, @.0034; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [49], VPL.0014.0042.0001, @.0009.

²³⁹⁵ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²³⁹⁶ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²³⁹⁷ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845; cf Transcript of [REDACTED].

²³⁹⁸ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [49], VPL.0014.0042.0001 @.0009; Exhibit RC0365 Record of interview between Mr Cooper, Ms Anne Farer and Inspector Dale Flynn, 22 April 2006, 1, VPL.0008.0001.1429 @.1429; Exhibit RC0365 Record of interview between Mr Cooper, Ms Anne Farer and Inspector Dale Flynn, 22 April 2006, 2, VPL.0008.0001.1429 @.1430; Transcript of Inspector Dale Flynn, 30 September 2019, 6800, TRN.2019.09.30.01.C.

²³⁹⁹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [50], VPL.0014.0042.0001 @.0009; Transcript of Inspector Dale Flynn, 30 September 2019, 6800.

²⁴⁰⁰ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [50], VPL.0014.0042.0001 @.0009; See also Transcript of Inspector Dale Flynn, 4 October 2019, 7263.

²⁴⁰¹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [50], VPL.0014.0042.0001 @.0009; Transcript of Inspector Dale Flynn, 30 September 2019, 6788-9.

²⁴⁰² Transcript of Inspector Dale Flynn, 30 September 2019, 6798, TRN.2019.09.30.01.C.

²⁴⁰³ Transcript of Inspector Dale Flynn, 30 September 2019, 6798, TRN.2019.09.30.01.C.

²⁴⁰⁴ Transcript of Inspector Dale Flynn, 4 October 2019, 7266, TRN.2019.10.04.01.C [not yet published].

²⁴⁰⁵ Transcript of Inspector Dale Flynn, 4 October 2019, 7266, TRN.2019.10.04.01.C [not yet published].

broader concession, in evidence before the Commission, that 'mistakes were made'.²⁴⁰⁶

- 1831.9. Once at the police station, Ms Gobbo advised Mr Agrum from 4:25pm.²⁴⁰⁷ Ms Gobbo recorded Mr Agrum's instructions in her court book, which appear to include the details of someone he wished her to contact and advise of his situation. Mr Kelly's diary notes record his being asked by Mr Agrum to advise the same person following his arrest.²⁴⁰⁸
- 1831.10. At approximately 4:43pm, Ms Gobbo conferred with Mr Cooper in private for up to an hour,²⁴⁰⁹ before leaving the St Kilda Road Police Station at approximately 5:45pm.²⁴¹⁰
- 1831.11. At 5:30pm, Mr Biggin attended at the Purana Taskforce where he met with Mr O'Connor (SSU) and was briefed by Mr Ryan and Mr O'Brien.²⁴¹¹
- 1831.12. Immediately after conferring with Mr Cooper, Ms Gobbo contacted Mr Peter Smith and reported to him some of the content of her communications with Mr Cooper, including:²⁴¹²
- 1831.12.1. that 'Cooper is wondering how Police knew of Lab'
- 1831.12.2. that Mr Cooper thought it 'may be relevant' that 'Steve Cvetanovski was there before Police'
- 1831.12.3. that Mr Cooper 'hadn't started cooking yet'.
- 1831.13. Following Ms Gobbo's departure at approximately 5:45pm, Mr Flynn went to an upper floor of the police station and updated Mr Biggin and Mr Highway on the progress of the investigation.²⁴¹³ It is likely that he also updated Mr O'Brien at about this time, including about the fact that Ms Gobbo had attended the station as Mr Cooper's lawyer.²⁴¹⁴
- 1831.14. At approximately 6:35pm, Ms Gobbo sent a text message to her handlers informing them that Mr Cooper had told her that 'there

²⁴⁰⁶ Transcript of Inspector Dale Flynn, 3 October 2019, 7210-7211, TRN.2019.10.03.01.C [not yet published].

²⁴⁰⁷ Exhibit RC0560 Inspector Dale Flynn diary, 22 April 2006, 266, VPL.0010.0007.0209 @.0210; Exhibit RC0273 Ms Nicola Gobbo court book, 22 April 2006, 18-19, MIN.0001.0014.0784 @.0801-.0802.

²⁴⁰⁹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [51], VPL.0014.0042.0001 @.0009. Ms Gobbo also conferred with Mr Agrum, separately, at this time. Transcript of Inspector Dale Flynn, 30 September 2019, 6802, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 1 October 2019, 6867, TRN.2019.10.01.01.C [not yet published].

²⁴¹⁰ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [51], VPL.0014.0042.0001 @.0009; Transcript of Inspector Dale Flynn, 30 September 2019, 6802, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 1 October 2019, 6867, TRN.2019.10.01.01.C [not yet published].

²⁴¹¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 22 April 2006, 12, VPL.0005.0155.0005 @.0016.

²⁴¹² Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁴¹³ Transcript of Inspector Dale Flynn, 30 September 2019, 6807-6808, 6814-6816, TRN.2019.09.30.01.C. At this time, Mr Biggin was the head of a Technical Support Unit, the Undercover Unit, and the Special Project Unit. He was the most senior officer of Victoria Police available for Mr Flynn to speak to on that evening.

²⁴¹⁴ Transcript of Inspector Dale Flynn, 4 October 2019, 7280, TRN.2019.10.04.01.C [not yet published].

and Peter Smith left part-way through the meeting, leaving Mr Flynn alone with Mr Cooper.²⁴²⁸ During the conversation, Mr Cooper told police that he wished to speak to his lawyer, Ms Gobbo, again.²⁴²⁹ It is likely that Messrs O'Brien and Peter Smith were still present when Mr Cooper requested Ms Gobbo's re-attendance.²⁴³⁰ Mr Flynn then telephoned Ms Gobbo, who was in the vicinity of the police station, and asked her to return.²⁴³¹

1831.17. At 7:10pm, Mr Kelly collected Ms Gobbo from reception and took her to the Purana Operations room on the 16th floor.²⁴³²

1831.18. At 7:55pm, Mr O'Brien spoke with Mr Horgan, seeking advice as to whether they could continue to hold Mr Cooper [REDACTED] without charge. Mr Horgan advised that the police should obtain the taped consent [REDACTED].²⁴³³

1831.19. At 7:15pm, Ms Gobbo attended the St Kilda Road Police Station as Mr Cooper's lawyer for the second time that day.²⁴³⁴ During her second visit, the following took place:

1831.19.1. Upon arriving, and before conferring with Mr Cooper, she had a conversation with Mr O'Brien, who told her of the police 'offer' that was put to Mr Cooper.²⁴³⁵

1831.19.2. It appears that Ms Gobbo then had a meeting with Mr Cooper, during which Messrs O'Brien, Flynn, and Peter Smith were also present.²⁴³⁶ In that meeting, it appears that the participants apart from Mr Cooper were each contributing to the presentation of a false picture to him which was designed to conceal the true circumstances of Ms Gobbo's relationship with Victoria Police as a human source. For example, Mr Peter Smith was presented to Mr Cooper [REDACTED] [REDACTED] to both him and Ms Gobbo.²⁴³⁷ Similarly, Ms Gobbo was presenting to Mr Cooper [REDACTED] [REDACTED].²⁴³⁸ On the other hand, Mr Cooper, unaware of Ms

²⁴²⁸ Transcript of Inspector Dale Flynn, 30 September 2019, 6819, TRN.2019.09.30.01.C..

²⁴²⁹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [52], VPL.0014.0042.0001 @.0010; Transcript of Inspector Dale Flynn, 30 September 2019, 6819, TRN.2019.09.30.01.C.

²⁴³⁰ Transcript of Inspector Dale Flynn, 4 October 2019, TRN.2019.10.04.01.C [not yet published].

²⁴³¹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [52], VPL.0014.0042.0001 @.0010; Transcript of Inspector Dale Flynn, 30 September 2019, 6819-6820, TRN.2019.09.30.01.C.

²⁴³³ Exhibit RC0933 James (Jim) O'Brien diary, 22 April 2006, 202, VPL.0100.0073.0076 @.0277.

²⁴³⁴ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 34 [174], VPL.0014.0040.0001 @.0034; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 5 [32], VPL.0014.0042.0001 @.0005; Transcript of Inspector Dale Flynn, 30 September 2019, 6820, TRN.2019.09.30.01.C; Transcript of Ms Nicola Gobbo, 6 February 2020, 13347, TRN.2020.02.06.01.P.

²⁴³⁵ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 34 [174], VPL.0014.0040.0001 @.0034.

²⁴³⁶ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 179-180, 220-2, VPL.0005.0104.0001 @.0179 - @.0180, @.0220 - @.0222; Transcript of Inspector Dale Flynn, 30 September 2019, 6853-4, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 1 October 2019, 6868, TRN.2019.10.01.01.C [not yet published].

²⁴³⁷ Transcript of Inspector Dale Flynn, 30 September 2019, 6854-5, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 1 October 2019, 6868, TRN.2019.10.01.01.C [not yet published]; Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 220-2, VPL.0005.0104.0001 @.0220 - @.0222.

²⁴³⁸ Transcript of Inspector Dale Flynn, 30 September 2019, 6854, TRN.2019.09.30.01.C.

Gobbo's collusion with police, was pretending to the investigating police officers that Ms Gobbo did not know anything about his offending conduct, in an effort to protect her and despite the investigators knowing full well to the contrary.²⁴³⁹

1831.19.3. Ms Gobbo described the scene a number of times subsequently:

- a) 23 April 2006 – Ms Gobbo described to Mr Sandy White and Mr Peter Smith (who had been present) that she went into the room with Mr O'Brien, Mr Flynn and Mr Peter Smith, she was a bit embarrassed as Mr Cooper burst into tears, grabbed her hand and said he did not think he could do it and did not want to put Ms Gobbo in any danger. However, she believed the situation for Mr Cooper was now 'three thousand times better' than it was the day before, and that he had needed a push.²⁴⁴⁰
- b) 9 June 2006 – Ms Gobbo described to Mr Sandy White and Mr Peter Smith (who had been present) that when Mr O'Brien was sitting in the room with Mr Flynn, Mr Cooper was crying, and he grabbed her hands and told her that he couldn't do it, that he loved her and that he would not do it unless she told him he should.²⁴⁴¹
- c) 27 September 2011 – Ms Gobbo was describing to Mr Buick how Mr Cooper had not wanted to assist but she had pushed him over the line, saying that it was an awful scene where Mr O'Brien and Mr Flynn were present in the boardroom at the Purana Taskforce, Mr Cooper was crying saying 'I can't do this, I can't do this and I won't do this unless you promise to look after me and support me,' to which she had agreed.²⁴⁴²

1831.19.4. At about 7:17pm, Mr Cooper requested that he speak to Ms Gobbo and that Mr Flynn remain present.²⁴⁴³ They remained in the room together until some time close to 9:00pm.²⁴⁴⁴ The only recording Mr Flynn made of this event in his diary was 'Mr Cooper agreed to be reinterviewed + assist'. He told the Commission that

²⁴³⁹ Transcript of Inspector Dale Flynn, 30 September 2019, 6854, TRN.2019.09.30.01.C.

²⁴⁴⁰ Exhibit RC0282 Transcript of conversation between Nicola Gobbo, Sandy White and Peter Smith, 23 April 2006, 31, VPL.0005.0097.0372 @.0402.

²⁴⁴¹ Exhibit RC0282 Transcript of conversation between Nicola Gobbo, Sandy White and Peter Smith, 9 June 2006, 179 VPL.0005.0097.0536 @.0714.

²⁴⁴² Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 27 September 2011, 26, VPL.0100.0068.0953 @.0978.

²⁴⁴³ Exhibit RC0933 Mr James (Jim) O'Brien diary, 22 April 2006, 202, VPL.0100.0073.0076 @0277.

²⁴⁴⁴ Transcript of Inspector Dale Flynn, 30 September 2019, 6827-8, TRN.2019.09.30.01.C; Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845; Cf Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010; Transcript of Inspector Dale Flynn, 30 September 2019, 6820, TRN.2019.09.30.01.C; Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 34-5 [175], VPL.0014.0040.0001 @.0034 - .0035.

whilst he did not recall the conversation,²⁴⁴⁵ during the meeting, Ms Gobbo provided advice to Mr Cooper to the effect that it was in his interests to assist police.²⁴⁴⁶ Mr Flynn agreed that Ms Gobbo was, unbeknownst to Mr Cooper, acting as an 'agent for the police' by assisting him in convincing Mr Cooper to roll over and assist police.²⁴⁴⁷ Ms Gobbo's method in persuading him to roll over included telling him to think about certain members of his family.²⁴⁴⁸ As set out above, Ms Gobbo later reflected that Mr Cooper had 'needed a bit of a push' to roll over.²⁴⁴⁹ In evidence before the Commission, Ms Gobbo accepted that she contributed to him being 'pushed over the line [to assist police] during the course of [that] discussion'.²⁴⁵⁰ Following the meeting, Mr Cooper agreed to plead guilty and assist police.²⁴⁵¹ As set out below, Mr Cooper, in his evidence before the Commission, was adamant that Ms Gobbo had played a decisive role in persuading Mr Cooper to that position.

- 1831.20. At 9:00pm, Ms Gobbo met with Messrs Peter Smith, Green, and O'Brien at the rear office of Purana.²⁴⁵² After some time, Mr O'Brien left the meeting.²⁴⁵³ Ms Gobbo expressed concern about other police who were present knowing her role as a human source. Arrangements were then made for Ms Gobbo 'to be escorted from the building by Investigators'.²⁴⁵⁴ It is noted that it appears that, at some point during Ms Gobbo's visits to the police station on the evening of 22 April, she had conferred with Mr Agrum and Mr Cooper together at the same time.²⁴⁵⁵

²⁴⁴⁵ Exhibits RC0538 Statement of Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010.

²⁴⁴⁶ Transcript of Inspector Dale Flynn, 30 September 2019, 6827, TRN.2019.09.30.01.C.

²⁴⁴⁷ Transcript of Inspector Dale Flynn, 30 September 2019, 6827, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 3 October 2019, 7183, TRN.2019.10.03.01.C [not yet published].

²⁴⁴⁸ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 182-3, VPL.0005.0104.0001 @.0182 - .0183; Transcript of Inspector Dale Flynn, 30 September 2019, 6855, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 1 October 2019, 6921, TRN.2019.10.01.01.C [not yet published] whereby Flynn stated that, as part of "the pitch", the police told Mr Cooper that, if he co-operated, they would try and make some time for him to see particular members of his family prior to him going into the prison system.

²⁴⁴⁹ Exhibit RC0548 Transcript of meeting between Nicola Gobbo, Peter Smith and Sandy White, 23 April 2006, 32, VPL.0005.0097.0372 @ 0403; Transcript of Inspector Dale Flynn, 1 October 2019, 6877, TRN.2019.10.01.01.C [not yet published]; Transcript of Ms Nicola Gobbo, 6 February 2020, 13349-13350, TRN.2020.02.06.01.P

²⁴⁵⁰ Transcript of Ms Nicola Gobbo, 6 February 2020, 13349-13350, TRN.2020.02.06.01.P.

²⁴⁵¹ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 35 [177], VPL.0014.0040.0001 @.0035; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010; Transcript of Inspector Dale Flynn, 30 September 2019, 6828, TRN.2019.09.30.01.C.

²⁴⁵² Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁴⁵³ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁴⁵⁴ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁴⁵⁵ Transcript of Inspector Dale Flynn, 30 September 2019, 6848, TRN.2019.09.30.01.C; Exhibit RC0493 Transcript of meeting between Nicola Gobbo, Peter Smith and Sandy White, 22 April 2006, 26, VPL.0005.0104.0001 @.0026.

- 1831.21. Between 9:08pm and 11:27pm, Mr Flynn and Mr Rowe interviewed Mr Cooper²⁴⁵⁶ during which he indicated his willingness to assist police,²⁴⁵⁷ made admissions in relation to the Strathmore laboratory and provided information about his relationships with the Mokbel family.²⁴⁵⁸ He also agreed to remain in police custody in order to assist police.²⁴⁵⁹ In the course of the interview, Mr Cooper implicated numerous other persons in criminal activities, including Mr Milad Mokbel, Mr Tony Mokbel, Mr Kabalan Mokbel, Mr Horty Mokbel, Mr Thomas, and Mr Cvetanovski.²⁴⁶⁰
- 1831.22. During or around the time of the second interview, Mr O'Brien updated the handlers as to the progress with Mr Cooper, including that he was being co-operative and had made admissions.²⁴⁶¹
- 1831.23. At 9.31pm, Messrs Peter Smith and Green collected Ms Gobbo and took her to a nearby [REDACTED] for a meeting.²⁴⁶² During the meeting, Ms Gobbo told her handlers that she had 'push[ed] [Mr Cooper] over the line tonight', a reference to her helping Victoria Police to persuade Mr Cooper to co-operate with and assist the authorities.²⁴⁶³ Ms Gobbo also commented that, in her view, she had 'helped' Mr Cooper that evening, by having 'looked after his interests', and that 'he'll appreciate it in time.'²⁴⁶⁴
- 1831.24. At 10:45pm Mr O'Brien advised Mr Grant that Mr Cooper had agreed to co-operate, that he had received advice from Mr Horgan in relation to holding Mr Cooper [REDACTED], and that he required the approval of an Assistant Commissioner to call out

²⁴⁵⁶ Exhibit RC0365 Record of interview between then Detective Sergeant Dale Flynn, then Detective Senior Constable Paul Rowe and Mr Cooper, 5-73, 78-79, VPL.0008.0001.1429 @.1433-1501, 1506-1507; Exhibit RC0365 Record of interview between then Detective Sergeant Dale Flynn, then Detective Senior Constable Paul Rowe and Mr Cooper, 74-77, VPL.0008.0001.1429 @.1502-1505; Transcript of Inspector Dale Flynn, 30 September 2019, 6821, 6833-6835, TRN.2019.09.30.01.C; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010.

²⁴⁵⁷ See Transcript of Inspector Dale Flynn, 30 September 2019, 6835, TRN.2019.09.30.01.C.

²⁴⁵⁸ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010; Exhibit RC0365 Record of interview between then Detective Sergeant Dale Flynn, then Detective Senior Constable Paul Rowe and Mr Cooper, 5-73, 78-79, VPL.0008.0001.1429 @.1433-1501, 1506-1507; Exhibit RC0365 Record of interview between then Detective Sergeant Dale Flynn, then Detective Senior Constable Paul Rowe and Mr Cooper, 74-77, VPL.0008.0001.1429 @.1502-1505.

²⁴⁵⁹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010.

²⁴⁶⁰ Exhibit RC0365 Record of interview between then Detective Sergeant Dale Flynn, then Detective Senior Constable Paul Rowe and Mr Cooper, 74-77, VPL.0008.0001.1429 @.1502-1505; Exhibit RC0365 Record of interview between then Detective Sergeant Dale Flynn, then Detective Senior Constable Paul Rowe and Mr Cooper, 5-73, 78-79, VPL.0008.0001.1429 @.1433-1501, 1506-1507: Also implicated were: Nick Radev (see page 10 @.1438); Carl Williams (see page 15 @.1443); George Williams (see page 19 @.1447); Danny Kettle (see page 21 @.1449); Shane Moran (see page 30 @.1458); Luxmore (see page 64 @.1492).

²⁴⁶¹ Exhibit RC0281 ICR3838 (028), 22 April 2006, 260, VPL.2000.0003.1846.

²⁴⁶² Exhibit RC0281 ICR3838 (028), 22 April 2006, 260, VPL.2000.0003.1846; Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 1, VPL.0005.0104.0001 @.0001.

²⁴⁶³ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 17, VPL.0005.0104.0001 @.0017; Transcript of Inspector Dale Flynn, 3 October 2019, 7183, TRN.2019.10.03.01.C [not yet published], in which Mr Flynn accepts that Ms Gobbo "helped ... convince [Mr Cooper] to become a witness".

²⁴⁶⁴ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 17, VPL.0005.0104.0001 @.0017; Transcript of Mr Peter Smith, 11 September 2019, 6121-3, TRN.2019.09.11.01.C.

the Force Response Unit to guard [REDACTED]. Mr Grant provided approval on behalf of Mr Overland.²⁴⁶⁵

- 1831.25. At 11:45pm, Mr Cooper and Mr Agrum were [REDACTED] interview room to speak about [REDACTED].²⁴⁶⁶
- 1831.26. It appears that Ms Gobbo and the handlers waited 'on standby', past midnight, to hear from investigators as to whether Ms Gobbo was required for a 'possible further meeting' with either Mr Cooper or Mr Agrum, or to otherwise further assist the investigators.²⁴⁶⁷ Towards the end of the meeting, Ms Gobbo told her handlers that she would like to speak to Mr Cooper again soon, and commented that she 'can't even ring ... [and] tell his own solicitor [Tony Hargreaves] that he's been arrested'.²⁴⁶⁸
- 1831.27. At 1.24am, after Mr O'Brien had advised them that Ms Gobbo was not required any further that night, the meeting between Ms Gobbo and the handlers ended.²⁴⁶⁹
- 1831.28. At 2:25am, Mr O'Brien advised Mr Peter Smith that [REDACTED] [REDACTED] and did not need any further advice from Ms Gobbo.²⁴⁷⁰
1832. The next morning, on 23 April 2006, Ms Gobbo asked Mr Peter Smith 'why no-one is saying thank you [to her] re Cooper [sic] arrest & correct prediction that he would roll'.²⁴⁷¹ She also reportedly expressed a desire to meet with Mr Cooper in order to 'give him instructions re what he should say to certain people, [including] Tony Hargreaves [sic] ...'.²⁴⁷²

Activities in Late April 2006, following Mr Cooper's Arrest [REDACTED]

1833. On 23 April 2006, Mr Cooper commenced providing assistance to Victoria Police in order to implicate his associates in criminal activities by the use of [REDACTED] and transactions.²⁴⁷³ Mr Flynn was managing his activities.
1834. On the morning of 23 April 2006, Messrs Sandy White, O'Brien, Biggin, Flynn and O'Connell met at the St Kilda Road Police Station and discussed plans as to how Victoria Police would utilise Mr Cooper to obtain evidence

²⁴⁶⁵ Exhibit RC0933 Mr James (Jim) O'Brien diary, 22 April 2006, 202, VPL.0100.0073.0076 @0277; Exhibit RC1562 Mr Richard Grant diary, 22 April 2006, 50, RCMP.0126.0001.0011 @.0050.

²⁴⁶⁶ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 22 April 2006, 110, VPL.0010.0003.0002 @.0111; Exhibit RC0560 Inspector Dale Flynn diary, 22 April 2006, 3, VPL.0010.0007.0209 @.0211.

²⁴⁶⁷ Exhibit RC0281 ICR3838 (028), 23 April 2006, 260, VPL.2000.0003.1846; Transcript of Inspector Dale Flynn, 1 October 2019, 6874, TRN.2019.10.01.01.C [not yet published]; Exhibit RC0546 Transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith and Mr Green, 22 April 2006, 201-3, VPL.0005.0104.0001 @.0201-0203.

²⁴⁶⁸ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 232-3, VPL.0005.0104.0001 @.0232-0233; Transcript of Inspector Dale Flynn, 1 October 2019, 6876-7, TRN.2019.10.01.01.C [not yet published].

²⁴⁶⁹ Exhibit RC0281 ICR3838 (028), 23 April 2006, 261, VPL.2000.0003.1847.

²⁴⁷⁰ Exhibit RC0486 Mr Peter Smith diary, 22 April 2006, 198, RCMP.0053.0001.0008 @.5561; Exhibit RC0281 ICR3838 (028), 22 April 2006, 260, VPL.2000.0003.1846.

²⁴⁷¹ Exhibit RC0281 ICR3838 (028), 23 April 2006, 261, VPL.2000.0003.1847.

²⁴⁷² Exhibit RC0281 ICR3838 (028), 23 April 2006, 261, VPL.2000.0003.1847.

²⁴⁷³ Transcript of Inspector Dale Flynn, 1 October 2019, 6881, TRN.2019.10.01.01.C [not yet published].

against his criminal associates, in particular, Mr Milad Mokbel. They also discussed the need to continue to liaise with Ms Gobbo.²⁴⁷⁴

1835. Late on the night of 23 April 2006, Ms Gobbo again met with her handlers, Messrs Sandy White and Peter Smith.²⁴⁷⁵ They had further discussions about what had occurred over the preceding day, during which she again reflected that Mr Cooper had 'needed a bit of a push' in deciding to cooperate with and assist authorities.²⁴⁷⁶
1836. Between 23 and 26 April 2006, Mr Cooper provided assistance to police, including participating in [REDACTED], in obtaining incriminating evidence against Messrs Milad Mokbel, Horty Mokbel, Mr Bickley, Mr Keene, and Zlate Cvetanovski.²⁴⁷⁷ It will be recalled that the affidavit Mr Rowe had been involved in preparing (to obtain a search warrant for Mr Cooper's clandestine laboratory) outlined information provided by Ms Gobbo.²⁴⁷⁸ It recorded various people about whom Ms Gobbo had provided information, including Mr Milad Mokbel and Mr Cvetanovski.²⁴⁷⁹
1837. On 24 April 2006, Phase Five of Operation Posse was approved, which involved Mr Cooper participating in a drug transaction with Mr Milad Mokbel. At 5:35pm, Mr Overland was briefed, and at 7:30pm Mr Grant signed off on the Operation Order which dealt with various arrests and search warrants which were to take place the following day. The Command team remained as it was during Phase One.²⁴⁸⁰
1838. Between 23 and 24 April 2006, members of Victoria Police (including Mr Flynn) facilitated several telephone calls between Mr Cooper and Ms Gobbo, on the ostensible basis that she was his legal representative.²⁴⁸¹ On each occasion she reported the details of her communications with Mr Cooper to her handlers.²⁴⁸² For example, on 24 April 2006, Ms Gobbo,

²⁴⁷⁴ Exhibit RC0292 Mr Sandy White diary, 52-54, VPL.2000.0001.0677 @.0728-0730; Transcript of Inspector Dale Flynn, 1 October 2019, 6882-6885, TRN.2019.10.01.01.C [not yet published].

²⁴⁷⁵ Exhibit RC0281 ICR3838 (028), 23 April 2006, 263, VPL.2000.0003.1849; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith and Sandy White on 23 April 2006, VPL.0005.0097.0372.

²⁴⁷⁶ Exhibit RC0281 ICR3838 (028), 23 April 2006, 263, VPL.2000.0003.1849; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith and Sandy White on 23 April 2006, 32, VPL.0005.0097.0372 @.0403; Transcript of Inspector Dale Flynn, 1 October 2019, 6877, TRN.2019.10.01.01.C [not yet published].

²⁴⁷⁷ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 35 [179], VPL.0014.0040.0001 @.0035; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [55], 11 [56], VPL.0014.0042.0001 @.0010 and @.0011; Transcript of Inspector Dale Flynn, 1 October 2019, 6881-6882, TRN.2019.10.01.01.C [not yet published].

²⁴⁷⁸ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 12 [89], VPL.0014.0035.0028 @.0039; Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9186-9188, 9206, TRN.2019.11.13.01.P.

²⁴⁷⁹ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9187-9188, TRN.2019.11.13.01.P; Exhibit RC0733 Confidential Affidavit sworn by Dale Flynn, 21 April 2006, VPL.0005.0035.1204.

²⁴⁸⁰ Exhibit RC0763 Purana Taskforce Operation Posse Phase Five Operation Order, 24 April 2006, VPL.0099.0056.0001.

²⁴⁸¹ Exhibit RC0281 ICR3838 (028), 23 April 2006, 263, VPL.2000.0003.1849; Exhibit RC0281 ICR3838 (028), 24 April 2006, 264, VPL.2000.0003.1850; Exhibit RC0281 ICR3838 (028), 24 April 2006, 266, VPL.2000.0003.1852; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [55], VPL.0014.0042.0001 @.0010.

²⁴⁸² Exhibit RC0281 ICR3838 (028), 23 April 2006, 263, VPL.2000.0003.1849; Exhibit RC0281 ICR3838 (028), 24 April 2006, 264, VPL.2000.0003.1850; Exhibit RC0281 ICR3838 (028), 24 April 2006, 266, VPL.2000.0003.1852; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [55], VPL.0014.0042.0001. Transcript of Inspector Dale Flynn, 4 October 2019, 7237, TRN.2019.10.04.01.C [not yet published].

having spoken to Mr Cooper, reported to her handlers that, inter alia, he 'asked about going [REDACTED] ... [and] will sign statements'.²⁴⁸³ Such information may have been captured by obligations of confidence and privilege.

1839. Moreover, in the period following 22 April 2006, Ms Gobbo herself continued to assist Victoria Police, including by:

- 1839.1. keeping quiet, and not communicating to anyone what had occurred in respect of Mr Cooper's arrest and his subsequent assistance to police²⁴⁸⁴
- 1839.2. communicating with members of Victoria Police to ensure that Mr Cvetanovski did not hold any suspicions in relation to Mr Cooper²⁴⁸⁵
- 1839.3. communicating with members of Victoria Police to manage her communications with Messrs Horty and Milad Mokbel in a strategic way in light of the ongoing investigation²⁴⁸⁶
- 1839.4. communicating with members of Victoria Police to manage Mr Cooper's communications with [REDACTED], so that she would not suspect anything unusual²⁴⁸⁷
- 1839.5. advising members of Victoria Police on potential subject matters for conversations between Mr Cooper and Mr Milad Mokbel²⁴⁸⁸
- 1839.6. communicating with Mr Cooper in order to provide him with comfort and reassurance, in order that he would be encouraged to continue to co-operate with and assist police.²⁴⁸⁹

1840. On 24 April 2006, Messrs Flynn and O'Brien attended a debrief in relation to Mr Cooper with Detective Superintendent Biggin, as well as Detective Superintendents Grant and Steendam.²⁴⁹⁰ Mr Flynn gave evidence that he could not remember whether Ms Gobbo's role in the events of the preceding days would have been mentioned, but conceded it was at least possible.²⁴⁹¹ He also noted that, given the culture at that time within Victoria Police among investigators not to talk about human sources, it was unlikely that Ms Gobbo's role would have arisen in the debriefing.²⁴⁹² He also maintained that, although it would have been open for him to have raised concerns with

²⁴⁸³ Exhibit RC0281 ICR3838 (028), 24 April 2006, 266, VPL.2000.0003.1852.

²⁴⁸⁴ Transcript of Inspector Dale Flynn, 1 October 2019, 6882, TRN.2019.10.01.01.C [not yet published].

²⁴⁸⁵ Exhibit RC0394 Mr Sandy White diary, 23 April 2006, 52-54, VPL.2000.0001.0677 @.0728-0730; Transcript of Inspector Dale Flynn, 1 October 2006, 6882-6887, 6891-6894, TRN.2019.10.01.01.C [not yet published]; Exhibit RC0281 ICR3838 (028), 23 April 2006, 261-62, VPL.2000.0003.1847-1848.

²⁴⁸⁶ Exhibit RC0394 Mr Sandy White diary, 23 April 2006, 52-54, VPL.2000.0001.0677 @.0728-0730; Transcript of Inspector Dale Flynn, 1 October 2006, 6882-6888, TRN.2019.10.01.01.C [not yet published]; Exhibit RC0281 ICR3838 (028), 23 April 2006, 261-62, VPL.2000.0003.1847-1848.

²⁴⁸⁷ Exhibit RC0281 ICR3838 (029), 25 April 2006, 268, VPL.2000.0003.1854; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 11 [58], VPL.0014.0042.0001 @.0011; Transcript of Inspector Dale Flynn, 1 October 2006, 6898-6899, TRN.2019.10.01.01.C [not yet published].

²⁴⁸⁸ Exhibit RC0281 ICR3838 (028), 23 April 2006, 261-62, VPL.2000.0003.1847-1848; Transcript of Inspector Dale Flynn, 1 October 2006, 6888, TRN.2019.10.01.01.C [not yet published].

²⁴⁸⁹ Transcript of Inspector Dale Flynn, 1 October 2006, 6875-6876, 6889, 6891, TRN.2019.10.01.01.C [not yet published].

²⁴⁹⁰ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 11 [57], VPL.0014.0042.0001 @.0011; Transcript of Inspector Dale Flynn, 1 October 2006, 6889-6890, 6896, TRN.2019.10.01.01.C [not yet published].

²⁴⁹¹ Transcript of Inspector Dale Flynn, 1 October 2006, 6896, TRN.2019.10.01.01.C [not yet published].

²⁴⁹² Transcript of Inspector Dale Flynn, 1 October 2006, 6896-6897, TRN.2019.10.01.01.C [not yet published].

his superiors about Ms Gobbo's role, he could not recall doing so at any time during the period surrounding 22 April 2006.²⁴⁹³

1841. On 25 April 2006, Ms Gobbo visited and conferred with Mr Cooper at the St Kilda Road Police Station.²⁴⁹⁴ Later that night, she also conferred with Mr Milad Mokbel and provided him with advice following his arrest.²⁴⁹⁵ The following day, 26 April 2006, Mr Cvetanovski was arrested, and Ms Gobbo was again the lawyer to provide him with advice.²⁴⁹⁶
1842. On 26 April 2006, Ms Gobbo appeared for Mr Cooper at a filing hearing in relation to the Posse Case.²⁴⁹⁷ Later that day, she told her handlers that she intended to act for Mr Cooper in his plea hearing.²⁴⁹⁸
1843. Between 26 to 30 April 2006, Ms Gobbo and members of Victoria Police (in particular the handlers and Mr Flynn) maintained ongoing contact in relation to Mr Cooper and related cases.²⁴⁹⁹

Initial Statements Taken from Mr Cooper

1844. Between 24 and 25 April 2006, Mr Cooper made four initial statements, which were taken by Messrs Flynn and Graham Evans.²⁵⁰⁰ Those statements detailed his activities assisting police in their investigations in the days following his arrest, and implicated some seven other persons in criminal offending.²⁵⁰¹ As addressed below, Mr Cooper eventually made over 40 statements in total.²⁵⁰²

²⁴⁹³ Transcript of Inspector Dale Flynn, 1 October 2006, 6896-6897, TRN.2019.10.01.01.C [not yet published].

²⁴⁹⁴ Exhibit RC0281 ICR3838 (029), 25 April 2006, 270, VPL.2000.0003.1856.

²⁴⁹⁵ Exhibit RC0281 ICR3838 (029), 25 April 2006, 270, VPL.2000.0003.1856; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 11 [60], VPL.0014.0042.0001 @.0011; See also submissions concerning Milad Mokbel.

²⁴⁹⁶ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 11 [61], VPL.0014.0042.0001 @.0011; see also submissions concerning Mr Cvetanovski.

²⁴⁹⁷ Exhibit RC1177 Transcript of Proceedings, *AB & EF v CD* [2017] VSC 350, 27 February 2017, 311, 350 COR.1000.0001.0355 @ 103.

²⁴⁹⁸ Exhibit RC0549d Transcript of conversation between Nicola Gobbo, Sandy White and Green, 26 April 2006, 115, VPL.0005.0111.0001 @.0115.

²⁴⁹⁹ Transcript of Inspector Dale Flynn, 1 October 2019, 6920-6923. Exhibit RC0281 ICR3838 (030) 26 April 2006, 272-3, VPL.2000.0003.1858-59; Exhibit RC0281 ICR3838 (030) 27 April 2006, 273, VPL.2000.0003.1859; Exhibit RC0281 ICR3838 (030) 28 April 2006, 274-5, VPL.2000.0003.1860-61; Exhibit RC0281 ICR3838 (030) 29 April 2006, 276, VPL.2000.0003.1862; Exhibit RC0281 ICR3838 (030) 30 April 2006, 276, VPL.2000.0003.1862;

²⁵⁰⁰ Transcript of Inspector Dale Flynn, 1 October 2019, 6929, TRN.2019.10.01.01.C [not yet published]; Exhibit RC1595 Statement of Mr Cooper, 24 April 2006, 110, RCMP.0028.0003.0001 @.0110: implicating Tony Bayed, Horthy Mokbel, [REDACTED] and Milad Mokbel, taken by Mr Flynn; Exhibit RC1604 Statement of Mr Cooper, 25 April 2006, 112, RCMP.0028.0003.0001 @.0112: implicating Milad Mokbel, taken by Mr Graham Evans; Exhibit RC1606 Statement of Mr Cooper, 25 April 2006, 115, RCMP.0028.0003.0001 @.0115: implicating Horthy Mokbel, Milad Mokbel, and Habib Mokbel, taken by My Flynn; Exhibit RC1591 Statement of Mr Cooper, 24 April 2006, 154, RCMP.0028.0003.0001 @.0154: implicating Mr Bickley, Tony Mokbel, Milad Mokbel, and Horthy Mokbel, taken by Mr Flynn.

²⁵⁰¹ Exhibit RC1595 Statement of Mr Cooper, 24 April 2006, 110, RCMP.0028.0003.0001 @.0110: implicating Tony Bayed, Horthy Mokbel, [REDACTED] and Milad Mokbel, taken by Mr Flynn; Exhibit RC1606 Statement of Mr Cooper, 25 April 2006, 112, RCMP.0028.0003.0001 @.0112: implicating Milad Mokbel, taken by Mr Graham Evans; Exhibit RC1591 Statement of Mr Cooper, 25 April 2006, 115, RCMP.0028.0003.0001 @.0115: implicating Horthy Mokbel, Milad Mokbel, and Habib Mokbel, taken by My Flynn; Exhibit RC1604 Statement of Mr Cooper, 24 April 2006, 154, RCMP.0028.0003.0001 @.0154: implicating Mr Bickley, Tony Mokbel, Milad Mokbel, and Horthy Mokbel, taken by Mr Flynn.

²⁵⁰² Transcript of Inspector Dale Flynn, 1 October 2019, 6929, TRN.2019.10.01.01.C [not yet published].

May 2006 to February 2007 (Mr Cooper's Plea and Sentence)

Ms Gobbo and Victoria Police Continue to Work Together in relation to Mr Cooper

1845. From May 2006 onwards, Ms Gobbo and Victoria Police (in particular the handlers and Mr Flynn) continued to maintain ongoing contact between each other in relation to Mr Cooper and related cases.²⁵⁰³
1846. For example, both Victoria Police and Ms Gobbo played a role in ensuring Mr Cooper had access to money in custody.²⁵⁰⁴ At first, Ms Gobbo was providing the funds to make payment to Mr Cooper.²⁵⁰⁵ It appears that those funds were sourced from a larger sum of money (possibly as much as \$400,000) which Mr Cooper had left with Ms Gobbo prior to his incarceration.²⁵⁰⁶ Eventually, however, Mr Flynn and other members of Purana Taskforce facilitated the payments from Victoria Police's funds by depositing cash into Mr Cooper's prison account, in a manner calculated to suggest that the source of the funds was Ms Gobbo or [REDACTED].²⁵⁰⁷ Those arrangements appear to have remained in place well into 2008.²⁵⁰⁸

Conduct of members of Victoria Police and Ms Gobbo in relation to Mr Cooper's statements and ongoing co-operation

1847. In May 2006, Mr Cooper and members of Victoria Police (including Mr Flynn) commenced the process of him making further statements, in addition to the four preliminary statements that he had made in late April 2006.²⁵⁰⁹ Mr Cooper ended up making over 40 statements,²⁵¹⁰ and the process was ongoing for several months.²⁵¹¹
1848. Throughout this period, it appears that Mr Flynn often visited Mr Cooper in prison in order to obtain detail and discuss matters for the preparation of his statements.²⁵¹² A pattern emerged whereby, following such visits, Mr Cooper would telephone Ms Gobbo, and the two of them would discuss the matters that he had discussed with Mr Flynn.²⁵¹³ Ms Gobbo and Mr Flynn also maintained frequent direct contact with each other from May 2006 through to

²⁵⁰³ As can be seen from the relevant ICRs in that period.

²⁵⁰⁴ Transcript of Inspector Dale Flynn, 1 October 2019, 6923-6924, TRN.2019.10.01.01.C [not yet published].

²⁵⁰⁵ Transcript of Inspector Dale Flynn, 1 October 2019, 6924, TRN.2019.10.01.01.C [not yet published].

²⁵⁰⁶ Transcript of Inspector Dale Flynn, 1 October 2019, 6924-6927; , TRN.2019.10.01.01.C [not yet published]; Exhibit RC0281 ICR2958 (043), 16 October 2008, 677, VPL.2000.0003.1417; Exhibit RC0281 ICR3838 (047), 5 October 2006, 451, VPL.2000.0003.2037.

²⁵⁰⁷ Transcript of Inspector Dale Flynn, 1 October 2019, 6924-6926, TRN.2019.10.01.01.C [not yet published]; Transcript of Ms Nicola Gobbo, 7 February 2020, 13416, TRN.2020.02.07.01.P.

²⁵⁰⁸ Exhibit RC0281 ICR2958 (043), 16 October 2008, 677, VPL.2000.0003.2263; Exhibit RC0284 SML2958, 16 October 2008, 50, VPL.2000.0001.9236 @.9285; Transcript of Inspector Dale Flynn, 1 October 2019, 6927-6928, TRN.2019.10.01.01.C [not yet published].

²⁵⁰⁹ Transcript of Inspector Dale Flynn, 1 October 2019, 6929, TRN.2019.10.01.01.C [not yet published].

²⁵¹⁰ Transcript of Inspector Dale Flynn, 1 October 2019, 6929, TRN.2019.10.01.01.C [not yet published].

²⁵¹¹ Transcript of Inspector Dale Flynn, 1 October 2019, 6930, TRN.2019.10.01.01.C [not yet published].

²⁵¹² Transcript of Inspector Dale Flynn, 1 October 2019, 6932, TRN.2019.10.01.01.C [not yet published].

²⁵¹³ Transcript of Inspector Dale Flynn, 1 October 2019, 6932-6933, TRN.2019.10.01.01.C [not yet published].

the end of the year, including about Mr Cooper's welfare and the prosecutions against him.²⁵¹⁴

1849. On 8 May 2006, the process gained momentum when Mr Flynn and his colleagues removed Mr Cooper from the prison system to a remote location to focus on the preparation of his statements.²⁵¹⁵
1850. Originally, it was intended by Victoria Police that Ms Gobbo would not see Mr Cooper during this statement taking process,²⁵¹⁶ presumably to maintain the integrity of his evidence.²⁵¹⁷ On 14 May 2006, however, Mr Flynn facilitated a meeting between Ms Gobbo and Mr Cooper at the Victoria Police Centre in Flinders St.²⁵¹⁸ At this stage, the statement taking process was 'in full swing'.²⁵¹⁹ On 14 May 2006, Mr Flynn collected Ms Gobbo from her chambers, took her to the meeting,²⁵²⁰ and returned her to chambers afterwards.²⁵²¹ According to Mr Flynn, the purpose of the meeting was for her to provide 'moral support' to Mr Cooper 'in relation to the route that he had decided to take'.²⁵²² Mr Flynn said using Ms Gobbo in this way was 'part of [Victoria Police's] process to keep [Mr Cooper] happy'.²⁵²³
1851. The meeting on 14 May 2006 commenced with Mr Flynn and Ms Gobbo together conferring with Mr Cooper for approximately one hour, during which Mr Flynn provided Ms Gobbo with an update on the statement taking process.²⁵²⁴ By that time, some 17 statements by Mr Cooper had been prepared.²⁵²⁵ Apparently there was concern on the part of statement takers as Mr Flynn recorded in his diary 'concerns re. financial and Mr Cooper protecting other associates.'²⁵²⁶ After the joint discussion with Mr Flynn, Ms Gobbo and Mr Cooper then conferred in private.²⁵²⁷ It is likely that the reasons for facilitating the meeting included having Ms Gobbo persuade Mr Cooper to be fully frank with the investigators. Ms Gobbo later reported to her handlers that she had spoken to Mr Cooper about 'how to make him 'bullet proof' from cross examination'.²⁵²⁸ It is worth noting that on 5 May 2006, Ms Gobbo reported to Messrs Sandy White, Peter Smith and

²⁵¹⁴ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 12 [67], VPL.0014.0042.0001 @.0011.

²⁵¹⁵ Transcript of Inspector Dale Flynn, 1 October 2019, 6929, 6938, 6941, TRN.2019.10.01.01.C [not yet published]; Exhibit RC0281 ICR3838 (031), 8 May 2005, 290, VPL.2000.0003.1876; Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 12 [66], VPL.0014.0042.0001 @.0012.

²⁵¹⁶ Exhibit RC0281 ICR3838 (031), 8 May 2006, 291, VPL.2000.0003.1877; Transcript of Inspector Dale Flynn, 1 October 2019, 6938-6940, TRN.2019.10.01.01.C [not yet published].

²⁵¹⁷ Mr Flynn conceded that this kind of rationale for Victoria Police's original position was "possible": see Transcript of Inspector Dale Flynn, 1 October 2019, 6938-6940, TRN.2019.10.01.01.C [not yet published].

²⁵¹⁸ Transcript of Inspector Dale Flynn, 1 October 2019, 6940-6941, 6950, TRN.2019.10.01.01.C [not yet published]; Exhibit RC0281 ICR3838 (031), 14 May 2006, 297-8, VPL.2000.0003.1883-1884.

²⁵¹⁹ Transcript of Inspector Dale Flynn, 2 October 2019, 7002, TRN.2019.10.02.01.C [not yet published].

²⁵²⁰ Exhibit RC0281 ICR3838 (031), 14 May 2006, 297-98, VPL.2000.0003.1883-1884; Transcript of Inspector Dale Flynn, 1 October 2019, 6950, TRN.2019.10.01.01.C [not yet published].

²⁵²¹ Transcript of Inspector Dale Flynn, 2 October 2019, 7002, TRN.2019.10.02.01.C [not yet published].

²⁵²² Transcript of Inspector Dale Flynn, 1 October 2019, 6940-6941, TRN.2019.10.01.01.C [not yet published].

²⁵²³ Transcript of Inspector Dale Flynn, 1 October 2019, 6941 [35]-[38], 6949-6950, TRN.2019.10.01.01.C [not yet published].

²⁵²⁴ Transcript of Inspector Dale Flynn, 1 October 2019, 6950-6952, TRN.2019.10.01.01.C [not yet published].

²⁵²⁵ Transcript of Inspector Dale Flynn, 2 October 2019, 6998, TRN.2019.10.02.01.C [not yet published].

²⁵²⁶ Exhibit RC0560 Inspector Dale Flynn diary, 14 May 2006, 11, VPL.0010.0007.0226.

²⁵²⁷ Transcript of Inspector Dale Flynn, 2 October 2019, 7000, TRN.2019.10.01.01.C [not yet published]; Transcript of Mr Cooper, 31 October 2019, 8724-8725, TRN.2019.10.31.01.C [not yet published].

²⁵²⁸ Exhibit RC0281 ICR3838 (031), 15 May 2006, 298, VPL.2000.0003.1884.

Anderson that Mr Cooper knew more about Mr Cvetanovski than he was currently telling investigators.²⁵²⁹

1852. Thereafter, and through to the end of the year, members of Victoria Police continued to engage with Ms Gobbo about Mr Cooper's statement taking process and ongoing co-operation with the authorities, as well as the prosecutions against him.²⁵³⁰ For example:
- 1852.1. on 21 May 2006, Mr Flynn attended upon Ms Gobbo in her chambers, in order to collect books to give to Mr Cooper who was 'upset' about his circumstances.²⁵³¹ On this occasion, Mr Flynn and Ms Gobbo met for close to three hours, during which they discussed Mr Cooper's welfare and future,²⁵³² and the statement taking process.²⁵³³ After the meeting Mr Flynn called his superior, Mr O'Brien, as well as Ms Gobbo's handler, Mr Peter Smith, to update them both on his communications with Ms Gobbo²⁵³⁴
 - 1852.2. on several occasions throughout the relevant period, Mr Flynn, through contact with Corrections Victoria, facilitated special meetings in custody between Ms Gobbo and Mr Cooper²⁵³⁵
 - 1852.3. members of Victoria Police, and in particular Mr Flynn, continued to use Ms Gobbo to 'keep [Mr Cooper] happy', and provide 'comfort' to him during the statement taking process, as it was of assistance to them in keeping him Cooperative with police²⁵³⁶
 - 1852.4. on 9 June 2006, Mr Flynn provided a collection of draft statements of Mr Cooper to Mr Green, one of Ms Gobbo's handlers, for the ostensible purpose of having the contents of the statements checked to ensure that they did not disclose Ms Gobbo's status as a human source.²⁵³⁷ [REDACTED] transcripts in relation to Mr Cooper 's activities were also provided²⁵³⁸
 - 1852.5. later the same day, 9 June 2006, Mr Green and Mr Sandy White met with Ms Gobbo to discuss, inter alia, the draft statements of Mr Cooper.²⁵³⁹ In the course of the meeting, Ms Gobbo provided comments on several of the draft statements.²⁵⁴⁰ The ICRs record:

²⁵²⁹ Exhibit RC0281 ICR3838 (031), 5 May 2006, 287, VPL.2000.0003.1873.

²⁵³⁰ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 12 [68], VPL.0014.0042.0001 @.0012.

²⁵³¹ Transcript of Inspector Dale Flynn, 2 October 2019, 7006-7007, TRN.2019.10.02.01.C [not yet published].

²⁵³² Transcript of Inspector Dale Flynn, 2 October 2019, 700, TRN.2019.10.02.01.C [not yet published].

²⁵³³ Transcript of Inspector Dale Flynn, 2 October 2019, 7008, TRN.2019.10.02.01.C [not yet published].

²⁵³⁴ Transcript of Inspector Dale Flynn, 2 October 2019, 7010, TRN.2019.10.02.01.C [not yet published].

²⁵³⁵ Transcript of Inspector Dale Flynn, 2 October 2019, 7011, TRN.2019.10.02.01.C [not yet published];

Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 13 [70], VPL.0014.0042.0001 @.0013.

²⁵³⁶ Transcript of Inspector Dale Flynn, 2 October 2019, 7014, TRN.2019.10.02.01.C [not yet published]; Transcript of Mr Cooper, 31 October 2019, 8719, TRN.2019.10.31.01.C [not yet published].

²⁵³⁷ Transcript of Inspector Dale Flynn, 2 October 2019, 7020-7021, TRN.2019.10.02.01.C [not yet published]; Exhibit RC0560 Inspector Dale Flynn diary, 9 June 2006, 30, VPL.0010.0007.0226.

²⁵³⁸ Transcript of Inspector Dale Flynn, 2 October 2019, 7020-7024, TRN.2019.10.02.01.C [not yet published].

²⁵³⁹ Exhibit RC0281 ICR3838 (034), 9 June 2006, 323-325, VPL.2000.0003.1909-1911.

²⁵⁴⁰ Exhibit RC0550d Transcript of conversation between Nicola Gobbo, Sandy White and Green, 9 June 2006, 342-344, 353, VPL.0005.0097.0536 @.0877-0879, .0888; Exhibit RC0282 Part 2 of Transcript of conversation between Nicola Gobbo, Sandy White and Green, 9 June 2006, 102-109, 113-128, 132-136, VPL.0005.0104.0260 at .0361-0368, VPL.0005.0104.0372-0387 @.0391-0395.

‘Source read all statements made by COOPER to Dale FLYNN of Purana. Very impressed with the detail and thoroughness. Source commented on a number of minor corrections’,²⁵⁴¹ During the discussion, it was acknowledged by Ms Gobbo and her handlers that Mr Cooper was not aware that Ms Gobbo would be reviewing his draft statements at that time and in that manner.²⁵⁴² Clearly, Mr Cooper’s then solicitor, Mr Hargreaves, was also deliberately excluded from this process by Ms Gobbo and Victoria Police, and remained unaware of this exercise²⁵⁴³

1852.6. on or around 17 July 2006, further arrangements were made for Ms Gobbo to review Mr Cooper’s draft statements.²⁵⁴⁴ According to Mr Flynn, Mr Hargreaves was also, separately, given the opportunity to review Mr Cooper’s statements on this day.²⁵⁴⁵

1853. In evidence before the Commission, Mr Cooper agreed that, during the relevant period, he had discussions with Ms Gobbo about the subject matter of his statements, including as to the ‘correctness of the facts’ and to ‘bounc[e] off her what was relevant and what wasn’t relevant’,²⁵⁴⁶ He also accepted that he ‘le[ft] things out of [his] statements that might not [have] reflect[ed] well on Ms Gobbo’.²⁵⁴⁷ He did not, however, agree with the proposition that Ms Gobbo had an influence on him as to the content of the statements.²⁵⁴⁸

1854. Ultimately, the bulk of the statements made by Mr Cooper were signed on 6 August 2007, in the presence of Mr Flynn.²⁵⁴⁹ As set out below, he also made additional statements after that date.²⁵⁵⁰

²⁵⁴¹ Exhibit RC0281 ICR3838 (034), 9 June 2006, 325, VPL.2000.0003.0325.

²⁵⁴² Exhibit RC0550d Transcript of conversation between Nicola Gobbo, Sandy White and Green, 9 June 2006, 292-293, VPL.0005.0097.0536 @.0827-0828; Transcript of Mr Cooper, 31 October 2019, 8727, TRN.2019.10.31.01.C [not yet published], confirming that he was unaware of this exercise on 9 June 2006.

²⁵⁴³ Transcript of Inspector Dale Flynn, 2 October 2019, 7028-7029, TRN.2019.10.02.01.C [not yet published]; Exhibit RC0550d Transcript of conversation between Nicola Gobbo, Sandy White and Green, 9 June 2006, 114-115 VPL.0005.0097.0536 @.0649-0650; Transcript of Inspector Dale Flynn, 2 October 2019, 7068, TRN.2019.10.02.01.C [not yet published]; Transcript of Ms Nicola Gobbo, 7 February 2020, 13396, TRN.2020.02.07.01.P.

²⁵⁴⁴ Exhibit RC0281 ICR3838 (038), 17 July 2006, 360, VPL.2000.0003.1946; Transcript of Inspector Dale Flynn, 2 October 2019, 7054, TRN.2019.10.02.01.C [not yet published].

²⁵⁴⁵ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 13 [70], VPL.0014.0042.0001 @.0013.

²⁵⁴⁶ Transcript of Mr Cooper, 31 October 2019, 8724, TRN.2019.10.31.01.C [not yet published].

²⁵⁴⁷ Transcript of Mr Cooper, 31 October 2019, 8724, TRN.2019.10.31.01.C [not yet published].

²⁵⁴⁸ Transcript of Mr Cooper, 31 October 2019, 8728, TRN.2019.10.31.01.C [not yet published].

²⁵⁴⁹ Transcript of Inspector Dale Flynn, 2 October 2019, 7075, TRN.2019.10.02.01.C [not yet published].

²⁵⁵⁰ Transcript of Inspector Dale Flynn, 2 October 2019, 7075, TRN.2019.10.02.01.C [not yet published].

1855. Thereafter, members of Victoria Police, both handlers²⁵⁵¹ and investigators,²⁵⁵² continued to communicate with Ms Gobbo about Mr Cooper through to his plea and sentencing hearings in February 2007.
1856. In evidence before the Commission, Mr Cooper accepted that in the weeks and months following 22 April 2006, he and Ms Gobbo had significant contact, and that the nature of the contact was essentially Ms Gobbo 'continuing to assure [him] that what [he] was doing was right ... [a]nd [to] follow through with what [he] had started' (that is, his co-operation with police).²⁵⁵³

After Mr Cooper's plea and sentence in February 2007

1857. Although Ms Gobbo did not appear at Mr Cooper's plea and sentencing hearings, she did continue to maintain a relationship with him well after February 2007. She also continued to communicate with members of Victoria Police, both handlers²⁵⁵⁴ and investigators,²⁵⁵⁵ about him. As part of this, Ms Gobbo continued to advance the ends of Victoria Police by providing information about, and support to, Mr Cooper which was designed to assist in ensuring his ongoing co-operation with authorities.²⁵⁵⁶ Ms Gobbo and Mr Cooper maintained contact until as late as 2013.²⁵⁵⁷
1858. As is detailed in Part 6 below, the evidence of Mr Cooper was relied upon in numerous subsequent cases in which convictions were obtained. Further, the assistance and evidence of Mr Cooper led to several other persons also deciding to assist authorities and become prosecution witnesses. As

²⁵⁵¹ Exhibit RC0281 ICR3838 (040), 11 August 2006, 396, VPL.2000.0003.1976; Exhibit RC0281 ICR3838 (041), 16 August 2006, 390, VPL.2000.0003.1982; Exhibit RC0281 ICR3838 (042), 20 August 2006, 401, VPL.2000.0003.1987; Exhibit RC0281 ICR3838 (044), 3 September 2006, 414, VPL.2000.0003.2000; Exhibit RC0281 ICR3838 (048), 9 October 2006, 460, VPL.2000.0003.2046; Exhibit RC0281 ICR3838 (048), 15 October 2006, 481, VPL.2000.0003.2067; Exhibit RC0281 ICR3838 (051), 30 October 2006, 530, VPL.2000.0003.2116; Exhibit RC0281 ICR3838 (054), 26 November 2006, 564, VPL.2000.0003.2150; Exhibit RC0281 ICR3838 (061), 8 January 2007, 599, VPL.2000.0003.2185; Exhibit RC0281 ICR3838 (064), 4 February 2007, 624, VPL.2000.0003.2210.

²⁵⁵² Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 13 [70], VPL.0014.0042.0001 @.0013.

²⁵⁵³ Transcript of Mr Cooper, 31 October 2019, 8667-8668, TRN.2019.10.31.01.C [not yet published].

²⁵⁵⁴ Exhibit RC0281 ICR3838 (040), 11 August 2006, 396, VPL.2000.0003.1976; Exhibit RC0281 ICR3838 (041), 16 August 2006, 390, VPL.2000.0003.1982; Exhibit RC0281 ICR3838 (042), 20 August 2006, 401, VPL.2000.0003.1987; Exhibit RC0281 ICR3838 (044), 3 September 2006, 414, VPL.2000.0003.2000; Exhibit RC0281 ICR3838 (048), 9 October 2006, 460, VPL.2000.0003.2046; Exhibit RC0281 ICR3838 (048), 9 October 2006, 481, VPL.2000.0003.2067; Exhibit RC0281 ICR3838 (051), 30 October 2006, 530, VPL.2000.0003.2116; Exhibit RC0281 ICR3838 (054), 26 November 2006, 564, VPL.2000.0003.2150; Exhibit RC0281 ICR3838 (061), 8 January 2007, 599, VPL.2000.0003.2185; Exhibit RC0281 ICR3838 (064), 4 February 2007, 624, VPL.2000.0003.2210.

²⁵⁵⁵ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 14 [74], VPL.0014.0042.0001 @.0013.

²⁵⁵⁶ Exhibit RC0281 ICR3838 (069), 7 March 2007, 678, VPL.2000.0003.2264; Exhibit RC0281 ICR3838 (070), 12 March 2007, 691, VPL.2000.0003.2277; Exhibit RC0281 ICR3838 (072), 26 March 2007, 734, VPL.2000.0003.2320; Exhibit RC0281 ICR3838 (079), 18 May 2007, 839, VPL.2000.0003.2425; Exhibit RC0281 ICR3838 (080), 20 May 2007, 841, VPL.2000.0003.2427; Exhibit RC0281 ICR3838 (085), 26 June 2007, 942, VPL.2000.0003.2528; Transcript of Inspector Dale Flynn, 3 October 2019, 7113-7114, TRN.2019.10.03.01.C [not yet published]; Transcript of Mr Cooper, 31 October 2019, 8719, TRN.2019.10.31.01.C [not yet published].

²⁵⁵⁷ Transcript of Mr Cooper, 31 October 2019, 8738-8741, TRN.2019.10.31.01.C [not yet published]; Transcript of Mr Cooper, 24 January 2020, 12413-12417, 12427-12429, TRN.2020.01.24.01.C [not yet published].

addressed in Part 6 below, the impacts of the conduct of Ms Gobbo and Victoria Police in relation to Mr Cooper reached far beyond his own case.

Evidence of Ms Gobbo before the Commission in relation to Mr Cooper

1859. In evidence before the Commission, Ms Gobbo, in effect, accepted or proffered the following significant propositions:

On her awareness and participation in the plan of Victoria Police

- 1859.1. that, following her registration in September 2005, she gradually became aware that it was the plan of Victoria Police to 'get [Mr Cooper] to roll and co-operate with police'²⁵⁵⁸
- 1859.2. that, in the context of the plan, she was 'encouraged' by Victoria Police to get 'closer' to Mr Cooper, which she did²⁵⁵⁹
- 1859.3. that, in furtherance of the plan, between September 2005 and April 2006, she provided police with a 'significant amount of information to Victoria Police about Mr Cooper',²⁵⁶⁰ including:
 - 1859.3.1. details about his criminal activities,²⁵⁶¹ including assisting police in locating the Strathmore laboratory²⁵⁶² (which led to Mr Cooper's arrest²⁵⁶³ and the charges in the Posse Case)
 - 1859.3.2. details about Mr Cooper's 'vulnerabilities', and the 'means by which it would be possible to have him assist police and co-operate once he was arrested'²⁵⁶⁴
- 1859.4. that, in the lead up to 22 April 2006, there was a common expectation on the part of Ms Gobbo and her handlers that she would be called upon to advise Mr Cooper upon his arrest²⁵⁶⁵

On her conduct on 22 April 2006

- 1859.5. that, in the circumstances which pertained as of April 2006, it was 'improper', 'wrong', and 'a huge ethical problem' for her to have attended at the police station upon Mr Cooper's arrest to advise him²⁵⁶⁶

²⁵⁵⁸ Transcript of Ms Nicola Gobbo, 6 February 2020, 13315-13316, TRN.2020.02.06.01.P.

²⁵⁵⁹ Transcript of Ms Nicola Gobbo, 6 February 2020, 13331-13332, TRN.2020.02.06.01.P.

²⁵⁶⁰ Transcript of Ms Nicola Gobbo, 6 February 2020, 13332, TRN.2020.02.06.01.P.

²⁵⁶¹ Transcript of Ms Nicola Gobbo, 6 February 2020, 13333, TRN.2020.02.06.01.P.

²⁵⁶² Transcript of Ms Nicola Gobbo, 6 February 2020, 13350, TRN.2020.02.06.01.P.

²⁵⁶³ Transcript of Ms Nicola Gobbo, 11 February 2020, 13701, TRN.2020.02.11.01.P.

²⁵⁶⁴ Transcript of Ms Nicola Gobbo, 6 February 2020, 13333, TRN.2020.02.06.01.P.

²⁵⁶⁵ Transcript of Ms Nicola Gobbo, 6 February 2020, 13337, TRN.2020.02.06.01.P.

²⁵⁶⁶ Transcript of Ms Nicola Gobbo, 6 February 2020, 13337, TRN.2020.02.06.01.P (in relation to the proposition that it was "improper"); Transcript of Ms Nicola Gobbo, 11 February 2020, 13803, TRN.2020.02.11.01.P (in relation to the proposition that it was "wrong; Transcript of Ms Nicola Gobbo, 6 February 2020, 13339, TRN.2020.02.06.01.P (in relation to the description "a huge ethical problem"); Transcript of Ms Nicola Gobbo, 6 February 2020, 13351, TRN.2020.02.06.01.P ("the ethics of it were all wrong").

- 1859.6. that, on 22 April 2006, Mr Cooper was entitled to an independent legal practitioner, rather than Ms Gobbo, who was, in truth, 'an agent of the police'²⁵⁶⁷
- 1859.7. that she contributed to Mr Cooper being 'pushed over the line' (in the sense of agreeing to co-operate with and assist police) on 22 April 2006²⁵⁶⁸
- 1859.8. that it was well-known to her and (in her view) to her handlers that 'what was going on [on 22 April 2006] was wrong'²⁵⁶⁹
- 1859.9. that she 'felt guilty' and 'upset' about the foregoing,²⁵⁷⁰ and that 'there's no excuse for the complete lack of ethics'²⁵⁷¹
- 1859.10. that her conduct on 22 April 2006 'potentially' had 'a tendency to pervert the course of justice'²⁵⁷²

On her conduct in the period following 22 April 2006

- 1859.11. that, beyond 22 April 2006, she provided ongoing assistance to Victoria Police by visiting Mr Cooper, and others, in custody,²⁵⁷³ as part of a 'hand holding process' in order to provide 'support' and keep him 'comfortable with what was going on',²⁵⁷⁴ in circumstances where he had agreed to co-operate with and assist authorities, and it was important to Victoria Police that he continue to do so²⁵⁷⁵
- 1859.12. that, as to her visit on 14 May 2006, Ms Gobbo understood that this was 'to provide [Mr Cooper] with comfort ... to keep him happy,' as well as 'to encourage him to be frank in making his statements'²⁵⁷⁶
- 1859.13. that Ms Gobbo was used by Victoria Police to provide 'reassurance' when Mr Cooper manifested 'hesitan[cy]' in his course of assisting and co-operating with Victoria Police²⁵⁷⁷
- 1859.14. that the above conduct was 'unacceptable ... at all levels'²⁵⁷⁸
- 1859.15. in other words, Victoria Police used Ms Gobbo to 'keep [Mr Cooper] happy and to ensure that [he] would continue to assist police by way of making statements, or at least giving evidence in accordance with [his] statements'²⁵⁷⁹
- 1859.16. that, after the bulk of the statements were made by August 2006, Ms Gobbo was concerned to ensure her role in relation to Mr

²⁵⁶⁷ Transcript of Ms Nicola Gobbo, 6 February 2020, 13338-13339, TRN.2020.02.06.01.P.

²⁵⁶⁸ Transcript of Ms Nicola Gobbo, 6 February 2020, 13349-13350, TRN.2020.02.06.01.P.

²⁵⁶⁹ Transcript of Ms Nicola Gobbo, 11 February 2020, 13803, TRN.2020.02.11.01.P.

²⁵⁷⁰ Transcript of Ms Nicola Gobbo, 11 February 2020, 13803, TRN.2020.02.11.01.P.

²⁵⁷¹ Transcript of Ms Nicola Gobbo, 6 February 2020, 13357, TRN.2020.02.06.01.P.

²⁵⁷² Transcript of Ms Nicola Gobbo, 6 February 2020, 13338, TRN.2020.02.06.01.P.

²⁵⁷³ Transcript of Ms Nicola Gobbo, 20 March 2019, 197, TRN.2019.03.20.01.C.

²⁵⁷⁴ Transcript of Ms Nicola Gobbo, 20 March 2019, 197, 204, TRN.2019.03.20.01.C.

²⁵⁷⁵ Transcript of Ms Nicola Gobbo, 7 February 2020, 13417, TRN.2020.02.07.01.P.

²⁵⁷⁶ Transcript of Ms Nicola Gobbo, 7 February 2020, 13395-13396, TRN.2020.02.07.01.P.

²⁵⁷⁷ Transcript of Ms Nicola Gobbo, 6 February 2020, 13352, TRN.2020.02.06.01.P.

²⁵⁷⁸ Transcript of Ms Nicola Gobbo, 6 February 2020, 13352, TRN.2020.02.06.01.P.

²⁵⁷⁹ Transcript of Ms Nicola Gobbo, 7 February 2020, 13417, TRN.2020.02.07.01.P.

Cooper (including in relation to the statement making process) would not be disclosed²⁵⁸⁰

- 1859.17. *On obtaining a financial advantage by deception in relation to Mr Cooper*
- 1859.18. that she had 'charged' Mr Cooper legal fees, and that (in her view) had he known the truth of her dual roles he would not have engaged her in the first place, let alone have paid her the fees²⁵⁸¹
- 1859.19. that she 'practis[ed] a deception on [her] clients, people ... [she] was purporting to represent ... by not telling them that [she] was an informer'.²⁵⁸²
1860. In relation to the last point, however, while Ms Gobbo accepted that the deception was 'wrong', and amounted to a 'breach of [her clients'] confidence', she did not agree that she was as a result not entitled to the money because she claimed that she 'did ... what [she] said [she] was going to do'.²⁵⁸³

Evidence of Mr Cooper before the Commission in relation to the Use of Ms Gobbo as a Human Source

1861. A number of significant propositions were also established in the evidence of Mr Cooper before the Commission. Mr Cooper agreed that, as at September 2005, when Ms Gobbo commenced informing on him, he placed a 'significant amount of trust in [her] as [his] lawyer', a position that she had held for some three years by that stage.²⁵⁸⁴ He also considered that she was his 'best friend' at this time.²⁵⁸⁵ As the other evidence bears out, Mr Cooper confirmed that, between September 2005 and April 2006, he and Ms Gobbo were in daily contact.²⁵⁸⁶
1862. In relation to the circumstances of 22 April 2006, Mr Cooper agreed with Ms Gobbo's assessment, namely that she had given him 'a bit of a push' in order for him to make the decision to co-operate with and assist police.²⁵⁸⁷ In a series of answers under examination by Counsel Assisting the Commission, Mr Cooper explained the significance of Ms Gobbo's influence on him in the period leading up to and on the evening of 22 April 2006:²⁵⁸⁸

MR WOODS: Do you agree with what [Ms Gobbo] says [in a recording with handlers on 22 April 2006²⁵⁸⁹] about looking after your interests to the exclusion of others, including herself? Is that something you would agree with or disagree with?²⁵⁹⁰

²⁵⁸⁰ Transcript of Ms Nicola Gobbo, 7 February 2020, 13413, TRN.2020.02.07.01.P.

²⁵⁸¹ Transcript of Ms Nicola Gobbo, 7 February 2020, 13453, TRN.2020.02.07.01.P.

²⁵⁸² Transcript of Ms Nicola Gobbo, 7 February 2020, 13454, TRN.2020.02.07.01.P.

²⁵⁸³ Transcript of Ms Nicola Gobbo, 7 February 2020, 13454, TRN.2020.02.07.01.P.

²⁵⁸⁴ Transcript of Mr Cooper, 31 October 2019, 8669, TRN.2019.10.31.01.C [not yet published].

²⁵⁸⁵ Transcript of Mr Cooper, 31 October 2019, 8669, TRN.2019.10.31.01.C [not yet published].

²⁵⁸⁶ Transcript of Mr Cooper, 31 October 2019, 8669, TRN.2019.10.31.01.C [not yet published].

²⁵⁸⁷ Transcript of Mr Cooper, 31 October 2019, 8713, TRN.2019.10.31.01.C [not yet published].

²⁵⁸⁸ Transcript of Mr Cooper, 31 October 2019, 8715-8718, TRN.2019.10.31.01.C [not yet published].

²⁵⁸⁹ Transcript of Mr Cooper, 31 October 2019, 8715, TRN.2019.10.31.01.C [not yet published].

²⁵⁹⁰ Transcript of Mr Cooper, 31 October 2019, 8715, TRN.2019.10.31.01.C [not yet published].

- MR COOPER: *Disagree with.*
- MR WOODS: *Why is that?*
- MR COOPER: *Who does that to a friend? Who would set me up like this? Who would not tell me to not re - offend, "You've done too much. Stop doing what you're doing". You know. Is this what a friend does? I don't understand it.*
- MR WOODS: *The focus there is on your friendship with her. What about – can you reflect on her position as your legal advisor?²⁵⁹¹*
- MR COOPER: *Well, that's just another - that's just - that's something for you guys to answer. That's just out of my league. That's just crazy, you know. You know, how does a barrister , how does a barrister inform on their client? You know, how does that even happen? You know, it's so unjust. I can't understand it, you know.*
- ...
- MR WOODS: *Reflecting on those events, what influence did Nicola Gobbo have on your decision, firstly, to plead guilty?*
- ...
- I am concentrating here on the Posse charges*
- ...
- MR COOPER: *Yep. No, she was significant. I wouldn't have done it on the night. I gave a no comment interview and we would have tied it up there. Had she not come in and the rest of it wouldn't have happened. The night would not have transpired like that.*
- ...
- MR WOODS: *... What about the decision to become a prosecution witness once the Posse charges had been made against you? What influence in your view did Nicola Gobbo have in relation to your decision to become a prosecution witness?²⁵⁹²*
- MR COOPER: *One hundred per cent.*
- COMMISSIONER: *Just before you go on to that, can I take you back to the pleas, the plea you would have made to the Posse charge. Now, had you known that Nicola Gobbo was your - had informed to police about what had happened when she was your lawyer, would that have made any*

²⁵⁹¹ Transcript of Mr Cooper, 31 October 2019, 8716, TRN.2019.10.31.01.C [not yet published].

²⁵⁹² Transcript of Mr Cooper, 31 October 2019, 8717, TRN.2019.10.31.01.C [not yet published].

difference to the plea you entered of guilty to the Posse charge?

MR COOPER: Yes, yep. I would have been irate about that, that not only that she'd helped set me up and I would have done everything in my power to have that reversed or have a mistrial or whatever the case may be.

...

MR WOODS: We were talking about your decision to plead and I was then asking you about what influence in your view Ms Gobbo had in relation to your decision to become a prosecution witness?

MR COOPER: Well you see by the transcripts, pretty much everything. By her presence that's what turned me around.

...

MR WOODS: And what influence - I'm sure it's difficult to dissect these things because there were numerous people saying numerous things to you on the evening, but what influence did Victoria Police members have in relation to your decision, firstly, to plead guilty and, secondly, to roll and become a prosecution witness?²⁵⁹³

MR COOPER: It wouldn't have been something I done. I didn't do it the first two times. I wouldn't have done the third time unless I was given that advice by my barrister.

MR WOODS: So Victoria Police alone in your view wouldn't have got you there?

MR COOPER: No.²⁵⁹⁴

MR WOODS: Were you told at any time by Victoria Police members or Nicola Gobbo that you had options for other legal representation?

MR COOPER: No.

MR WOODS: So there was that caution – sorry, go ahead?

MR COOPER: It didn't occur to me. She was my barrister and I trusted her wholeheartedly.

MR WOODS: And no one ever told you not to use her?

MR COOPER: No.

²⁵⁹³ Transcript of Mr Cooper, 31 October 2019, 8718, TRN.2019.10.31.01.C [not yet published].

²⁵⁹⁴ Cf. Transcript of Mr Cooper, 31 October 2019, 8755-8759, TRN.2019.10.31.01.C [not yet published].

1863. Further, in evidence before the Commission, Mr Cooper agreed that Ms Gobbo continued to exert an influence on him in the period following 22 April 2006 by encouraging him to continue his co-operation with police:²⁵⁹⁵

MR WOODS: Mr Flynn's evidence before the Commission was that one of the ways Nicola Gobbo assisted the police was to communicate with you in order to give you a sense of comfort and reassurance so that you'd be encouraged to continue to co-operate with the police after 22 April. Does that accord with your recollection?

MR COOPER: Absolutely, yes.

MR WOODS: And are we talking here about just those handful of days after your arrest where you're undertaking these particular activities or are we talking right into the future where you were giving evidence well into 2011 and onwards I think?

MR COOPER: It was basically while the statements were being made.

...

And she would come to the prison to see me and keep telling me to stay the course up to 2007.

1864. Mr Cooper also confirmed that Ms Gobbo's role as an informer against him was never disclosed to him, and that he first learnt of this at the beginning of the Commission.²⁵⁹⁶ The implications of the failure of disclosure are stark when one takes account of Mr Cooper's clear position, in his evidence before the Commission, that had he received the disclosure to which he was entitled in 2005 and 2006, events and circumstances may have been wholly different:²⁵⁹⁷

MR WOODS: ... Would you have sought independent advice had it been disclosed to you how it came about that you were implicated in the Operation Posse charges?

MR COOPER: Absolutely.

COMMISSIONER: Would you have allowed Nicola Gobbo to continue to act for you on the matter?

MR COOPER: After knowing what I know now, absolutely not.

1865. Finally, in evidence before the Commission, Mr Cooper expressed a strong view that the system of justice had been 'abused' and 'violated' by the conduct of Ms Gobbo and Victoria Police in relation to his case:

²⁵⁹⁵ Transcript of Mr Cooper, 31 October 2019, 8719, TRN.2019.10.31.01.C [not yet published].

²⁵⁹⁶ Transcript of Mr Cooper, 31 October 2019, 8744-8745, TRN.2019.10.31.01.C [not yet published].

²⁵⁹⁷ Transcript of Mr Cooper, 31 October 2019, 8744-8745, TRN.2019.10.31.01.C [not yet published].

MR WOODS: How do you feel that you came out of this relationship between Victoria Police and Nicola Gobbo?

MR COOPER: I feel so violated. There's nothing excusing the fact I did the crime and I understand that and I own it, but ultimately I just feel that there's a system and the system's been abused and this is all we've got, you know, and I honestly, I believe in the system and it just can't be, it shouldn't be violated like that, it just shouldn't be.

Part 5 – Submissions under Terms of Reference 1 and 2 in relation to Mr Cooper

1866. It is submitted that it is open to the Commissioner to find that the four cases of Mr Cooper may have been affected by the conduct of Ms Gobbo as a human source, as well as the conduct of members of Victoria Police in their disclosures about and recruitment, management, and handling of Ms Gobbo as a human source.
1867. The extent to which the cases of Mr Cooper may have been affected can be measured by virtue of the following matters.

Conduct of Ms Gobbo

1868. First, Category 1A²⁵⁹⁸ applies in all four cases in that, between 2002 and 2007,²⁵⁹⁹ Ms Gobbo acted for Mr Cooper while she was a human source,²⁶⁰⁰ and did not disclose same to him.²⁶⁰¹
1869. Secondly, in all four cases, Category 1B²⁶⁰² applies in that, between September 2005 and February 2007,²⁶⁰³ which was during the period that Ms Gobbo acted for Mr Cooper in relation to the cases, Ms Gobbo provided information in relation to him to members of Victoria Police. In addition, in relation to the Posse Case, Ms Gobbo assisted in the prosecution of Mr Cooper by her conduct between September 2005 and February 2007, as set out above.²⁶⁰⁴
1870. Thirdly, in relation to the Posse Case, Category 2A²⁶⁰⁵ applies in that evidence relied upon by the prosecution²⁶⁰⁶ may have been obtained in consequence of an impropriety or illegality in connection with the use of Ms Gobbo as a human source by Victoria Police.²⁶⁰⁷

²⁵⁹⁸ See Legal Principles Submissions at [249].

²⁵⁹⁹ See above analysis at Part 3.

²⁶⁰⁰ See Legal Principles Submissions at [20].

²⁶⁰¹ See Legal Principles Submissions at [239].

²⁶⁰² See Legal Principles Submissions at [249].

²⁶⁰³ See above analysis at Part 4.

²⁶⁰⁴ See above analysis at Part 4, esp at [1802]-[1806], [1815]-[1818], [1831], [1845]-[1856], and [1859].

²⁶⁰⁵ See Legal Principles Submissions at [249].

²⁶⁰⁶ See above analysis at [1755].

²⁶⁰⁷ See Legal Principles Submissions at [196]-[222].

1871. Fourthly, in relation to the Posse Case, Category 2B²⁶⁰⁸ applies in that Ms Gobbo had knowledge of the circumstances founding the above and failed to disclose this to her client, Mr Cooper, thereby depriving him of the ability to object to its admission.²⁶⁰⁹

1872. On the evidence, it is open to the Commissioner to find that the above conduct by Ms Gobbo under Categories 1A and 1B, together with conduct under Categories 2A and 2B, evinces a conflict of interest and may constitute breaches of her duty to the administration of justice, her duty to the court, her duty to her client, and her fiduciary duties.²⁶¹⁰ Further, in certain instances identified above,²⁶¹¹ Ms Gobbo's conduct may constitute a breach of legal professional privilege and/or confidence.²⁶¹²

1873. It should be noted, as set out at [254] of the Legal Principles Submissions, that the Categories may apply even in circumstances where Ms Gobbo appeared at preliminary stages of proceedings (such as in mention hearings, bail applications and committals), and did not appear at trial. In some cases she was led at trial. In other cases she provided advice in relation to, but did not appear in, criminal proceedings. In some cases the information Ms Gobbo passed on to Victoria Police was relatively innocuous and/or based on the evidence reviewed by Counsel Assisting there is no suggestion that the information materially advanced the prosecution of her client. Cases will inevitably turn on their facts as to whether there was a sufficient connection between the conduct of Ms Gobbo and Victoria Police members and the conviction upon trial of the accused, or the accused's plea of guilty, to potentially result in a substantial miscarriage of justice.

1874. [REDACTED]

1875. [REDACTED]

²⁶⁰⁸ See Legal Principles Submissions at [249].

²⁶⁰⁹ See above analysis at [1864].

²⁶¹⁰ See Legal Principles Submissions at [320]-[329] and [307]-[309].

²⁶¹¹ See above analysis at Part 4, esp at [1760.4], [1788.1], [1794.4]-[1794.5], [1807.2] and the associated footnote reference, [1831.12], [1838], and [1851].

²⁶¹² See Legal Principles Submissions at [310]-[319] and [301]-[306].

²⁶¹³ See above analysis at Part 3, esp at [1759.2], and [1859.18]-[1860].

²⁶¹⁴ See Legal Principles Submissions at [278]-[291].

²⁶¹⁵ See above analysis at Part 4, esp at [1802]-[1806], [1815]-[1818], [1825.1]-[1825.5], [1831], [1839], [1852.5], [1859] and esp [1859.10].

[REDACTED]

1876. In particular, the foregoing conduct may have included the following:²⁶¹⁷

1876.1. between September 2005 and April 2006, Ms Gobbo providing Victoria Police with information or intelligence that she had obtained by virtue of her professional relationship with Mr Cooper and which was calculated to (i) incriminate him in the offending the subject of the Posse Case and (ii) assist Victoria Police in its overt strategy to obtain his co-operation and assistance

1876.2. on 22 April 2006, Ms Gobbo, together with members of Victoria Police (as addressed below), deceiving Mr Cooper to the effect that she would provide him with independent legal counsel, when she was in fact (and by her own admission) acting as an agent of Victoria Police and assisting in obtaining his co-operation and assistance to further the ends of Victoria Police

1876.3. between 23 April 2006 and February 2007, Ms Gobbo, together with members of Victoria Police, deceiving Mr Cooper to the effect that she was continuing to provide him with independent legal counsel, when she was in fact acting as an agent of Victoria Police by taking steps to ensure his ongoing co-operation and assistance to further the ends of Victoria Police

1877. [REDACTED]

²⁶¹⁶ See Legal Principles Submissions at [257]-[277].

²⁶¹⁷ See above analysis at Part 4, esp at [1802]-[1806], [1815]-[1818], [1825.1]-[1825.5], [1831], [1839], [1852.5], [1859] and esp [1859.10].

²⁶¹⁸ See below analysis concerning possible misconduct in public office on the part of the relevant members of police.



Conduct of Victoria Police

1878. There was an obligation upon all members of Victoria Police, in particular those with management and oversight responsibilities, who had knowledge of the recruitment, handling and management of Ms Gobbo as a human source, to take all steps necessary to ensure that:²⁶²⁰
- 1878.1. the same was lawful and not improper, and did not interfere with the right to a fair trial of any person charged with a criminal offence, including Mr Cooper
 - 1878.2. in the event that the same had the potential to interfere with the right to a fair trial of any person including Mr Cooper, appropriate disclosure was made; or alternatively
 - 1878.3. if such disclosure was not to be made, to have matters of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.
1879. In circumstances set out in this case study, it is submitted that not all necessary steps referred to in [1041.1] were taken, and accordingly there was the potential for the right of Mr Cooper to a fair trial to have been interfered with.
1880. Further, it is submitted that there was a failure by members of Victoria Police to make appropriate disclosure to Mr Cooper and/or his legal representatives.
1881. In the alternative, if such disclosure was not to be made by members of Victoria Police, there was a failure to take steps to have matters of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.²⁶²¹
1882. Victoria Police is a part of the prosecution for the purposes of disclosure. If the prosecution of the accused was to continue, this was a duty owed to the Court. It does not matter whether the prosecutors were unaware of the relevant information.²⁶²²
1883. Further, the duty of disclosure is ongoing, and the involvement of Ms Gobbo as a human source should have been disclosed to the accused even after his guilty plea.²⁶²³
1884. Category 3A²⁶²⁴ applies in all four cases in that there was non-disclosure of Ms Gobbo's status as a human source, and a failure to take any steps to

²⁶¹⁹ See Legal Principles Submissions at [292]-[300], [476]-[501].

²⁶²⁰ See Legal Principles Submissions at [384] and [452]-[457].

²⁶²¹ See Legal Principles Submissions at [380]-[385].

²⁶²² See Legal Principles Submissions at [351], [362]-[373].

²⁶²³ See Legal Principles Submissions at [351], [374].

²⁶²⁴ See Legal Principles Submissions at [465].

have potential issues of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.

1885. Category 3B²⁶²⁵ applies in all four cases in that, during the period Ms Gobbo acted for Mr Cooper, she provided information in relation to him to members of Victoria Police and/or otherwise assisted the prosecution of the accused,²⁶²⁶ and there was non-disclosure of same, and a failure to take any steps to have potential issues of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.
1886. Category 4A²⁶²⁷ applies in relation to the Posse Case in that, as noted above at [1870], evidence relied upon by the prosecution may have been obtained in consequence of an impropriety or illegality in connection with the use of Ms Gobbo as a human source by Victoria Police.
1887. Category 4B²⁶²⁸ applies in relation to the Posse Case in that there was the above conduct, and there was non-disclosure of same, and a failure to take any steps to have potential issues of public interest immunity or matters of state considered by the DPP or the VGSO and then possibly a court.
1888. As noted above, cases will inevitably turn on their facts as to whether there was a sufficient connection between the conduct of Ms Gobbo and Victoria Police members and the conviction upon trial of the accused, or the accused's plea of guilty, to potentially result in a substantial miscarriage of justice.

Conduct of Members of Victoria Police

1889. The following passages focus on particular police members and their knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper. The particular members are analysed due to their seniority or the significant extent of their knowledge or involvement in the relevant events.

Mr Overland

1890. The following evidence is relevant to an analysis of Mr Overland's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:

1890.1. During the relevant period, Mr Overland was either Assistant Commissioner Crime²⁶²⁹ or Deputy Commissioner.²⁶³⁰ During the relevant period, as a police member, he was a public official.

²⁶²⁵ See Legal Principles Submissions at [465].

²⁶²⁶ See above analysis at [1869].

²⁶²⁷ See Legal Principles Submissions at [465].

²⁶²⁸ See Legal Principles Submissions at [465].

²⁶²⁹ Exhibit RC0915, Statement of Mr Simon Overland, 19 September 2019, 7, COM.0014.0001.0001 at [34]:

"In February 2003 I was appointed Assistant Commissioner Crime, Victoria Police, with direct line responsibility for the operation of the Crime Department and the management of major crime across and impacting on Victoria."

²⁶³⁰ Exhibit RC0915, Statement of Mr Simon Overland, 19 September 2019, 7-8, COM.0014.0001.0001 at [37]:

- 1890.2. Mr Overland understood the obligation upon police to disclose relevant material²⁶³¹ beyond that relied upon by police in the brief of evidence, which included exculpatory matters such as material relating to the credibility of a witness whose credit was in issue.²⁶³²
- 1890.3. He understood that where a PII claim was to be made it was appropriate to get legal advice about it.²⁶³³
- 1890.4. He understood the right to silence and the right to be represented by a legal representative who was independent of the police.²⁶³⁴
- 1890.5. He understood the position of conflict Ms Gobbo would place herself in if she provided information about someone she was representing²⁶³⁵ and that information gathered from such a situation could be inadmissible.²⁶³⁶ He also understood that If Ms Gobbo acted for an individual who provided evidence against another individual, she could not act for that other individual, and to do so had the potential to interfere with the course of justice.²⁶³⁷
- 1890.6. Between 2004 and 2008 he had oversight of a number of investigations in which officers had dealings with Ms Gobbo. Primarily, these were operations related to Taskforces Purana and Petra.²⁶³⁸
- 1890.7. His evidence was that:²⁶³⁹

... I was aware of Ms Gobbo's use as a human source in relation to the investigations into the Mokbel syndicate conducted under Operation Posse. While I did not specifically authorise her role, equally I did not stop it for the reasons I have set out in this statement. I accept responsibility for her use as a human source in these operations, but at the time I believed she was not informing in breach of her professional obligations.

I verbally instructed my investigators that Ms Gobbo could not provide information or be tasked in relation to current clients, or to provide information obtained in a lawyer/client relationship. I clearly recollect having conversations with a number of my investigators. including Gavan Ryan and Jim

In June 2006 I was appointed Deputy Commissioner, Victoria Police. I was responsible for corporate leadership and management in Victoria Police, including development and implementation of new service delivery principles across the organisation; reform of systems and work practices emphasising improvement of front-line capacity and service delivery.

²⁶³¹ Transcript of Mr Simon Overland, 16 December 2019, 11323, TRN.2019.12.16.01.P [not yet published]; Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 29 [148], COM.0014.0001.0001 @.0029.

⁵²¹ Transcript of Mr Simon Overland, 16 December 2019, 11397, TRN.2019.12.16.01.P [not yet published].

²⁶³³ Transcript of Mr Simon Overland, 17 December 2019, 11471-2, TRN.2019.12.17.01.P.

²⁶³⁴ Transcript of Mr Simon Overland, 16 December 2019, 11324, TRN.2019.12.16.01.P [not yet published].

²⁶³⁵ Transcript of Mr Simon Overland, 17 December 2019, 11435, TRN.2019.12.17.01.P.

²⁶³⁶ Transcript of Mr Simon Overland, 17 December 2019, 11436, TRN.2019.12.17.01.P.

²⁶³⁷ Transcript of Mr Simon Overland, 19 December 2019, 11753, TRN.2019.12.19.01.P.

²⁶³⁸ Exhibit RC915 Statement of Mr Simon Overland, 19 September 2019, 10 [49], COM.0014.0001.0001 @.0010.

²⁶³⁹ Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 21 [113]- [114], COM.0014.0001.0001 @.0021.

O'Brien, to that effect. I believed this was a shared understanding.

1891. As is submitted in Chapter 10, it is open to the Commissioner to make certain findings concerning the state of Mr Overland's knowledge of Ms Gobbo's informing on Mr Tony Mokbel and members of his syndicate during 2005 and 2006 and what he should have done concerning those matters.
1892. Further, as is submitted in the submissions concerning Ms Gobbo's and Victoria Police's conduct in relation to Mr Thomas, it is open to the Commissioner to make certain findings concerning the state of Mr Overland's knowledge of Ms Gobbo's informing on Mr Thomas while representing him, and what he should have done concerning those matters.
1893. As to his knowledge concerning Ms Gobbo informing on Mr Cooper while acting for him, Mr Overland's own evidence was that whilst he was aware of the centrality of both Mr Cooper (for the possibility of rolling) and Ms Gobbo (for her informing) to Operation Posse, he did not believe that he knew that Ms Gobbo was acting for Mr Cooper prior to Mr Cooper's arrest on 22 April 2006.²⁶⁴⁰

1894. **However, on the evidence, it is open to the Commissioner to find that Ms Gobbo's representation of Mr Cooper while informing on him became known to Mr Overland at some time between September 2005 and March 2006 in the meetings identified above. That finding is based on an inference which can comfortably be drawn because:**

- 1894.1. **he was aware of and permitted the recruitment and deployment of Ms Gobbo as human source, for the purpose of providing information about Mr Tony Mokbel and his associates, in circumstances where he was aware that Ms Gobbo was at the time representing Mr Tony Mokbel and various of his associates and that she continued to do so**
- 1894.2. **he was aware of and approved the plan to use information provided by Ms Gobbo to members of the SDU, and then to investigators under his command in order to obtain incriminating evidence against Mr Tony Mokbel and his associates, including Mr Cooper**
- 1894.3. **he knew of and approved that the strategy of both Operation Posse and the SDU was to make Mr Cooper 'roll' and to assist police against the Mokbels²⁶⁴¹**
- 1894.4. **he was aware Ms Gobbo was informing on Mr Cooper²⁶⁴²**

²⁶⁴⁰ Transcript of Mr Simon Overland, 17 December 2019, 11492, 11436, TRN.2019.12.17.01.P.

²⁶⁴¹ Transcript of Mr Simon Overland, 17 December 2019, 11452, 11462, 11466, 11436, TRN.2019.12.17.01.P.

²⁶⁴² Exhibit RC0984 Mr Simon Overland diary, 27 September 2005, 513-514, RCMPI.0133.0001.0001 @.0513-.0514.

- 1894.5. **he was aware that Ms Gobbo was providing significant information which assisted police to obtain incriminating evidence against Mr Cooper**
- 1894.6. **during the period from 16 September 2005 to 22 April 2006, Purana/Operation Posse and the SDU focused ever-increasing attention on Mr Cooper, due to the information Ms Gobbo was providing in relation to him**
- 1894.7. **he held a very senior role which included overseeing Purana/Operation Posse and he was received regular briefings concerning it²⁶⁴³**
- 1894.8. **those briefing Mr Overland knew that Ms Gobbo was acting for Mr Cooper while informing on him**
- 1894.9. **he knew at that time that Ms Gobbo was acting for various targets in the Posse Investigation Plan²⁶⁴⁴**
- 1894.10. **he was present at the 16 January 2006 meeting where the possibility of narrowing Operation Posse to the rolling of Mr Cooper was discussed.²⁶⁴⁵ Mr Blayney's notes confirm Mr Cooper was described as a 'weak link' – that is consistent with the information Ms Gobbo had provided to the SDU²⁶⁴⁶**
- 1894.11. **on 16 February 2006 he told Mr Biggin that Ms Gobbo was to be protected at all costs.²⁶⁴⁷ Mr Biggin's evidence was that this was an unusual thing for an Assistant Commissioner to do.²⁶⁴⁸ This demonstrates an awareness of the importance of the information Ms Gobbo was providing, which at that stage, was significantly focussed on Mr Cooper. It would be unlikely that Mr Overland would provide such a direction if he did not know the information being provided concerning Mr Cooper and the highly risky method by which Ms Gobbo was obtaining it**
- 1894.12. **his oral evidence suggested that he knew that Ms Gobbo was acting for Mr Cooper at some stage in this period.²⁶⁴⁹**

1895. In the event that the Commissioner does not accept that Ms Gobbo's representation of Mr Cooper while informing on him became known to Mr Overland at some time between September

²⁶⁴³ Transcript of Mr Simon Overland, 17 December 2019, 11466, 11436, TRN.2019.12.17.01.P.

²⁶⁴⁴ Transcript of Mr Simon Overland, 17 December 2019, 11464, 11436, TRN.2019.12.17.01.P.

²⁶⁴⁵ Exhibit RC0468 Mr James (Jim) O'Brien diary summaries, 16 January 2006, 8, VPL.0005.0126.0001 @.0008.

²⁶⁴⁶ Exhibit RC0817 Mr John (Jack) Blayney diary, 16 January 2006, VPL.0005.0156.0001.

²⁶⁴⁷ Transcript of Mr Simon Overland, 17 December 2019, 11472, 11436, TRN.2019.12.17.01.P.

²⁶⁴⁸ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7508 -7509, TRN.2019.10.09.01.C [not yet published].

²⁶⁴⁹ Transcript of Mr Simon Overland, 17 December 2019, 11492-11493, TRN.2019.12.17.01.P: "I think, look I think I knew she had acted for a lot of these people in the past. But I'm not clear whether I knew – I don't believe I knew she was currently acting for him." (underlining added)

2005 and March 2006, it is open to the Commissioner to find that Mr Overland knew that fact by 19 April 2006, which was prior to Mr Cooper's arrest. That is so because the meeting on that day between Mr Overland, Mr O'Brien and the DPP, Mr Coghlan, identified at [1814.6] above occurred in circumstances where:

- 1895.1. on 18 April 2006, Mr Cooper's lab was located. The plan was to arrest Mr Cooper in possession of incriminating evidence to encourage him to 'roll'. However, for this to occur, his impending court date (in which Ms Gobbo was representing him) needed to be adjourned
- 1895.2. Mr O'Brien advised that he and Mr Overland were to meet with Mr Coghlan to discuss the adjournment²⁶⁵⁰
- 1895.3. Ms Gobbo told Mr Peter Smith that the prosecution should indicate that the prosecutor was unavailable, or something to that effect, but the application must come from the prosecution. Mr Sandy White and Mr O'Brien were advised²⁶⁵¹
- 1895.4. Mr Overland and Mr O'Brien spoke with Mr Coghlan about the possibility of getting an adjournment in Mr Cooper's case, amongst other matters. Mr Coghlan was told that the adjournment was wanted as there was 'a much bigger picture' at play²⁶⁵²
- 1895.5. Mr Coghlan became aware at around this time that Ms Gobbo was representing Mr Cooper²⁶⁵³
- 1895.6. Despite his evidence to the effect that it was possible that there was discussion at this meeting about who was acting for Mr Cooper, it is submitted that this was inevitably the case
- 1895.7. Further, when questioned about his knowledge as to Ms Gobbo's representation of Mr Cooper, Mr Overland's answer demonstrated a knowledge that Ms Gobbo had been acting for Cooper at some stage

I think, look I think I knew she had acted for a lot of these people in the past. But I'm not clear whether I knew – I don't believe I knew she was currently acting for him;²⁶⁵⁴

²⁶⁵⁰ Exhibit RC0305 Mr Sandy White diary, 18 April 2006, 26-27, VPL.0100.0096.0157 @.0182-.0183; Exhibit RC0984 Mr Simon Overland diary, 18 April 2006, 262, VPL.0005.0264.0053 @.0314.

²⁶⁵¹ Exhibit RC0281 ICR3838, 18 April 2006, 252-253, VPL.2000.0003.1838, @.1839.

²⁶⁵² Exhibit RC0182 Transcript of conversation between Ms Nicola Gobbo, Sandy White, Peter Smith and Green, 20 April 2006, 228-229, VPL.0005.0097.0011; Exhibit RC0984 Mr Simon Overland diary, 19 April 2006, 263, VPL.0005.0264.0053 @.0315.

²⁶⁵³ It is noted that the following year, an instructing solicitor raised Ms Gobbo's potential conflict of interest in her representation of Mr Bickley during a meeting with Purana Taskforce investigators. Mr Coghlan's response indicated a knowledge of Ms Gobbo's representation of Mr Cooper around the time Milad Mokbel was arrested – see Exhibit RC0738, Email from Heffernan to May Rowe and Flynn dated 15 March 2007, attaching file note of conference with DPP on 14 March 2007, VPL.6030.0200.3202 @.3203.

²⁶⁵⁴ Transcript of Mr Simon Overland, 17 December 2019, 11492-11493, TRN.2019.12.17.01.P.

1895.8. **The above, when considered in light of Mr Overland's apparently strict direction that Ms Gobbo could not continue to act for people if she was providing information about them,²⁶⁵⁵ indicates that as at 19 April 2006 when the meeting took place, he would have taken an interest in whether or not Ms Gobbo was representing Mr Cooper.**

1896. **If it is accepted that Ms Gobbo's representation of Mr Cooper while informing on him became known to Mr Overland at any time during his employment at Victoria Police, then on the evidence, it is open to the Commissioner to find that Mr Overland between 16 September 2005 and 22 April 2006, or alternatively between 19 April 2006 and 22 April 2006 knew that:**

- 1896.1. **Ms Gobbo was a barrister and human source**
- 1896.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1896.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1896.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1896.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1896.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1897. **Further, if it is found that Mr Overland knew the above matters at the above dates, due to his knowledge and involvement in the investigation and prosecution of people Mr Cooper implicated, it is open to the Commissioner to find that between May 2006 and February 2007 (when Mr Cooper was sentenced), Mr Overland was aware of the continued use of Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper**

²⁶⁵⁵ Transcript of Mr Simon Overland, 17 December 2019, 11454, TRN.2019.12.17.01.P; Mr Overland's evidence was also that he was surprised and concerned when he learned that Ms Gobbo was a human source, and that he was always concerned by and appreciated the legal and ethical issues about her role as a human source – see Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 1 [8], COM.0014.0001.0001 @.0001.

in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Overland knew that:

- 1897.1. **Ms Gobbo was a barrister and human source**
- 1897.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1897.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1897.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1897.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1897.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1898. **In the event that the Commissioner does not accept that Ms Gobbo's representation of Mr Cooper while informing on him became known to Mr Overland at any time during the relevant period, it is open to the Commissioner to find that Mr Overland should have made inquiries and discovered those matters. That is so because his evidence was that he gave a precise direction that Ms Gobbo could not continue to act for people if she was providing information about them.²⁶⁵⁶ Given he was legally qualified and, to give this direction, readily identified the serious risks posed to the integrity of the administration of justice, he had an obligation to make inquiries as to whether his direction was being complied with. Mr Overland accepted that as the person with ultimate responsibility for Operation Posse, he should have known.²⁶⁵⁷**

²⁶⁵⁶ Transcript of Mr Simon Overland, 17 December 2019, 11454, TRN.2019.12.17.01.P.

²⁶⁵⁷ See Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 21 [113], COM.0014.0001.0001 @.0021 (underlining added):

... I was aware of Ms Gobbo's use as a human source in relation to the investigations into the Mokbel syndicate conducted under Operation Posse. While I did not specifically authorise her role, equally I did not stop it for the reasons I have set out in this statement. I accept responsibility for her use as a human source in these operations, but at the time I believed she was not informing in breach of her professional obligations.

See also: Transcript of Mr Simon Overland, 17 December 2019, 11494, TRN.2019.12.17.01.P:

Mr Winneke: What about your own investigators, did you ask your investigators whether they were aware that Ms Gobbo was representing Mr Cooper?

Mr Overland: No, I didn't. Well I don't think I asked them, I don't believe I asked them.

Mr Winneke: Why wouldn't you ask them, that would be an absolutely obvious question?

Mr Overland: Why would I?

Mr Winneke: Because you say you're concerned and you were shocked and surprised when you heard that a barrister was acting as an informer?

Mr O'Brien

1899. The following evidence is relevant to an analysis of Mr O'Brien's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:

- 1899.1. during the relevant period, as a police member, Mr O'Brien was a public official
- 1899.2. between 8 January 2002 and 13 September 2005, Mr O'Brien was Detective Senior Sergeant/Acting Detective Inspector at the MDID. On about 13 September 2005 he became officer in charge of the Purana Taskforce²⁶⁵⁸
- 1899.3. he understood the obligation upon police to disclose relevant material, including exculpatory material²⁶⁵⁹
- 1899.4. he understood that where a PII claim was to be made it was appropriate to get legal advice about it²⁶⁶⁰ and that determination of a claim of public interest immunity was a matter for the court²⁶⁶¹
- 1899.5. he was aware that he could seek legal advice in relation to disclosure matters²⁶⁶²
- 1899.6. he understood the right to be represented by a legal representative who was independent of the police²⁶⁶³
- 1899.7. his evidence concerning his understanding of conflict of interest was that:

Mr Overland: Correct.

Mr Winneke: And you say that you were concerned about the admissibility of evidence?

Mr Overland: Correct.

Mr Winneke: And the potential for the perversion of the course of justice, were you interested in that?

Mr Winneke: Obviously.

Mr Winneke: And you didn't ask these simple questions I suggest?

Mr Overland: Well because they are highly experienced investigators. I mean Jim O'Brien, the investigators working in Purana, were all highly experienced investigators.

Mr Winneke: Right?

Mr Overland: I assumed, well more than I assumed, I knew them to be competent, I knew them to be highly experienced. I assumed they would be dealing with these issues.

Mr Winneke: Do you accept as a person who was ultimately responsible for this investigation that if you didn't know, you should have known?

Mr Winneke: Yes.

²⁶⁵⁸ Exhibit RC0464 Statement of Mr James (Jim) O'Brien (longer), 14 June 2019, 1 [4], 10 [43], 11 [49], VPL.0014.0040.0001 @.0001, .0010, .0011.

²⁶⁵⁹ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5548, TRN.2019.09.04.01 [not yet published].

²⁶⁶⁰ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5709, TRN.2019.09.04.01 [not yet published].

²⁶⁶¹ Transcript of Mr James (Jim) O'Brien 5 September 2019, 5709; 5712, TRN.2019.09.04.01 [not yet published].

²⁶⁶² Transcript of Mr James (Jim) O'Brien, 4 September 2019, 5490, TRN.2019.09.04.01 [not yet published].

²⁶⁶³ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5651, TRN.2019.09.04.01 [not yet published].

- 1899.7.1. it was a conflict of interest for a barrister to represent a person in a situation where she was unable to provide independent advice²⁶⁶⁴
- 1899.7.2. it was appropriate that advice would be sought from the OPP about Ms Gobbo appearing for various people in positions of conflict²⁶⁶⁵
- 1899.7.3. it would be a conflict for Ms Gobbo to represent a client and to provide information in relation to him.²⁶⁶⁶
- 1899.8. in February 2002, Mr O'Brien had attended the fire in the clandestine laboratory as part of Operation Landslip²⁶⁶⁷
- 1899.9. during 2002 and 2003 he had oversight of Operation Matchless which culminated in a number of arrests in April 2003,²⁶⁶⁸ including Mr Cooper 's arrest on 11 April 2003
- 1899.10. he was aware that Ms Gobbo was representing Mr Cooper in that matter²⁶⁶⁹
- 1899.11. in around August 2004, he was receiving feedback from staff that Ms Gobbo's contact with her clients went beyond that of a usual lawyer-client relationship²⁶⁷⁰
- 1899.12. on 31 August 2005 Mr Mansell reported his conversation with Ms Gobbo regarding her willingness to assist in relation to Mr Tony Mokbel.²⁶⁷¹ Mr O'Brien reported that to Mr Ryan²⁶⁷²
- 1899.13. Mr O'Brien became officer in charge of the Purana Taskforce on about 13 September 2005.²⁶⁷³ From that time onward, the significant focus of that taskforce was to 'roll' Mr Cooper, a process which was being assisted by information Ms Gobbo was providing
- 1899.14. on 19 September 2005 Mr O'Brien attended a meeting at the State Intelligence Division with Detective Acting Inspector Hill and members of the SDU in relation to the meeting with Ms Gobbo that had occurred on 16 September 2005²⁶⁷⁴

²⁶⁶⁴ Transcript of Mr James (Jim) O'Brien, 4 September 2019, 6 September 2019, 5589, 5804, TRN.2019.09.04.01 [not yet published].

²⁶⁶⁵ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5463; 5465; 5508, TRN.2019.09.04.01 [not yet published].

²⁶⁶⁶ Transcript of Mr James (Jim) O'Brien, 5 September 2019, 5513, TRN.2019.09.04.01 [not yet published].

²⁶⁶⁷ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 14 June 2019, 5 [15], VPL.0014.0040.0001 @.0005.

²⁶⁶⁸ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 6 [22], VPL.0014.0040.0001 @.0006.

²⁶⁶⁹ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 6 [22], VPL.0014.0040.0001 @.0006.

²⁶⁷⁰ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 9 [40], VPL.0014.0040.0001 @.0009.

²⁶⁷¹ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 10 [44]-[45], VPL.0014.0040.0001 @.0010.

²⁶⁷² Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 10 [47], VPL.0014.0040.0001 @.0010.

²⁶⁷³ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 1 [4], 10 [43], 11 [49], VPL.0014.0040.0001 @.0001, .0010, .0011.

²⁶⁷⁴ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 12 [53], VPL.0014.0040.0001 @.0012.

- 1899.15. from September 2005 Mr O'Brien commenced receiving information from SDU personnel which had emanated from Ms Gobbo²⁶⁷⁵
- 1899.16. on 22 November 2005 he held a briefing for Operation Posse. He prepared a briefing document which referred to the extreme risk associated with the use of Ms Gobbo as a human source²⁶⁷⁶
- 1899.17. he was involved in the 5 January 2006 discussions regarding bringing about an adjournment of Mr Cooper's matters.²⁶⁷⁷ He spoke to Ms Gobbo about that matter that day.²⁶⁷⁸ On 5 January 2006, Mr Peter Smith spoke with Mr Sandy White and then Mr O'Brien about the matter. It was determined that Ms Gobbo would be provided with Mr O'Brien's number and told that he was Mr Flynn's supervisor who may agree to such a request in Mr Flynn's absence. When spoken to, Ms Gobbo said she was of the view that Mr O'Brien detested her. She was told he was unaware of her status as a human source.²⁶⁷⁹ Mr O'Brien recorded in his diary at 1:10pm receiving intelligence from Mr Peter Smith originating from '3838', although recorded nothing about '3838' wanting to arrange a bail variation for Mr Cooper. At 3:10pm, he recorded in his diary that he returned a telephone call to 'solicitor Nicola Gobbo' in relation to the application to vary bail for Mr Cooper, to which he agreed.²⁶⁸⁰ It is clear that Mr O'Brien was aware of Ms Gobbo's representation of Mr Cooper, against whom she was informing, and that he was concerned not to include in his diary that '3838' information which might indicate this
- 1899.18. from January 2006 until April 2006 he continued to receive regular information from the SDU that had emanated from Ms Gobbo.²⁶⁸¹ That included a significant amount of information concerning Mr Cooper, who Mr O'Brien knew she was acting for
- 1899.19. he and Mr Overland attended the 19 April 2006 meeting with the DPP regarding bringing about an adjournment in Mr Cooper's plea
- 1899.20. first thing on the morning of 21 April 2006, Mr Peter Smith advised Mr O'Brien as to what occurred during the meeting with Ms Gobbo the previous night²⁶⁸²

²⁶⁷⁵ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 16 [69], VPL.0014.0040.0001 @.0016.

²⁶⁷⁶ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 18 [83]–[85], VPL.0014.0040.0001 @.0018.

²⁶⁷⁷ Exhibit RC0281 ICR3838 (015), 5 January 2006, 110, VPL.2000.0003.1696.

²⁶⁷⁸ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 21 [98], VPL.0014.0040.0001 @.0021.

²⁶⁷⁹ Exhibit RC0281 ICR3838 (015), 5 January 2006, 110, VPL.2000.0003.1696.

²⁶⁸⁰ Exhibit RC0933 Mr James (Jim) O'Brien diary, 5 January 2006, 112-3, VPL.0100.0073.0076 @.0187-.0188.

²⁶⁸¹ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 14 June 2019, 21 [101], VPL.0014.0040.0001 @.0021.

²⁶⁸² Exhibit RC0486 Mr Peter Smith diary, 21 April 2006, 192, RCMP.0053.0001.0008 @.5555.

- 1899.21. he was the Forward Commander in the operation to arrest Mr Cooper and Mr Agrum²⁶⁸³
- 1899.22. on 22 April 2006 he attended at the scene of the arrest of Mr Cooper and Mr Agrum.²⁶⁸⁴ Following the arrests, Mr O'Brien was intimately involved in the events that evening at the police complex²⁶⁸⁵
- 1899.23. at 3:03pm, Mr O'Brien notified Mr Peter Smith at the SDU that Mr Cooper and one other had been arrested in such a manner that he believed it could be 'kept quiet'.²⁶⁸⁶ This presented the possibility that Mr Cooper could participate in [REDACTED] with other Operation Posse targets. The only way Mr O'Brien could have had any degree of confidence about this proposition was if he had known that both Mr Cooper and Mr Agrum had requested Ms Gobbo, an agent of the police, as their legal advisor
- 1899.24. he and Mr Ryan briefed Mr Biggin on the evening of 22 April 2006.²⁶⁸⁷

1900. **On the evidence, it is open to the Commissioner to find that on the morning of 21 April 2006, Mr Peter Smith advised Mr O'Brien that on the previous evening, Ms Gobbo confirmed to Mr Peter Smith and Mr Sandy White her intention to represent Mr Cooper on his arrest. Accordingly, Mr O'Brien's evidence of his 'shock' when Ms Gobbo attended to represent Mr Cooper and Mr Agrum on 22 April 2006 should be rejected. That is so, because the issue of Ms Gobbo's attendance upon Mr Cooper's arrest was a significant issue discussed in that meeting, it posed significant risks to the proper administration of justice, Mr O'Brien was in charge of Purana which was to bring about the arrest and the attempt to 'roll' Mr Cooper and Mr Peter Smith's report to him occurred early on the morning of 21 April 2006.**

1901. **On the evidence, it is open to the Commissioner to find that Mr O'Brien between 16 September 2005 and 22 April 2006 knew that:**

1901.1. **Ms Gobbo was a barrister and human source**

1901.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**

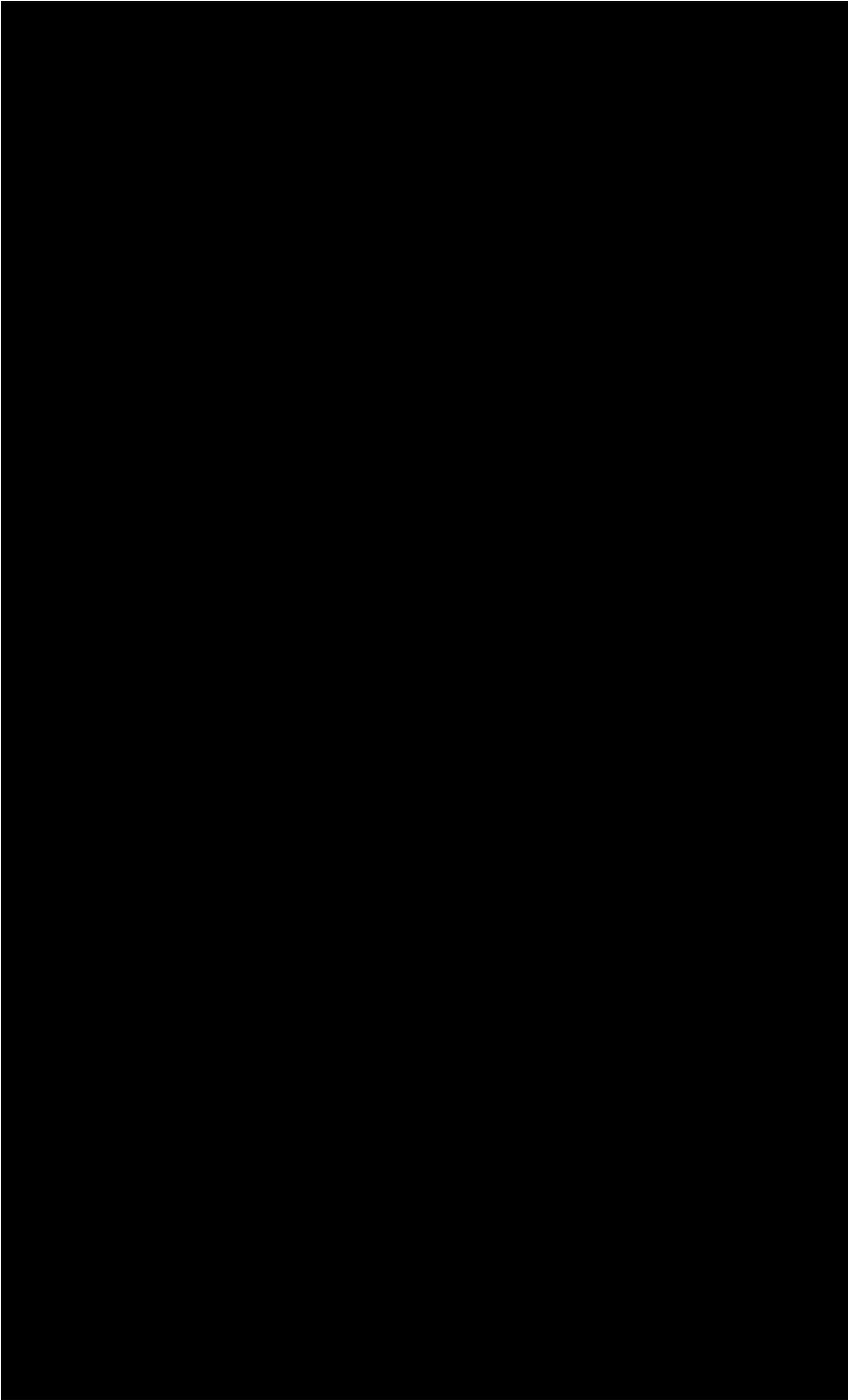
²⁶⁸³ Exhibit RC1751 Purana Taskforce, Operation Posse, Phase One, Operation Order, execution date to be determined, VPL.0099.0117.0289 @.0293-.0300.

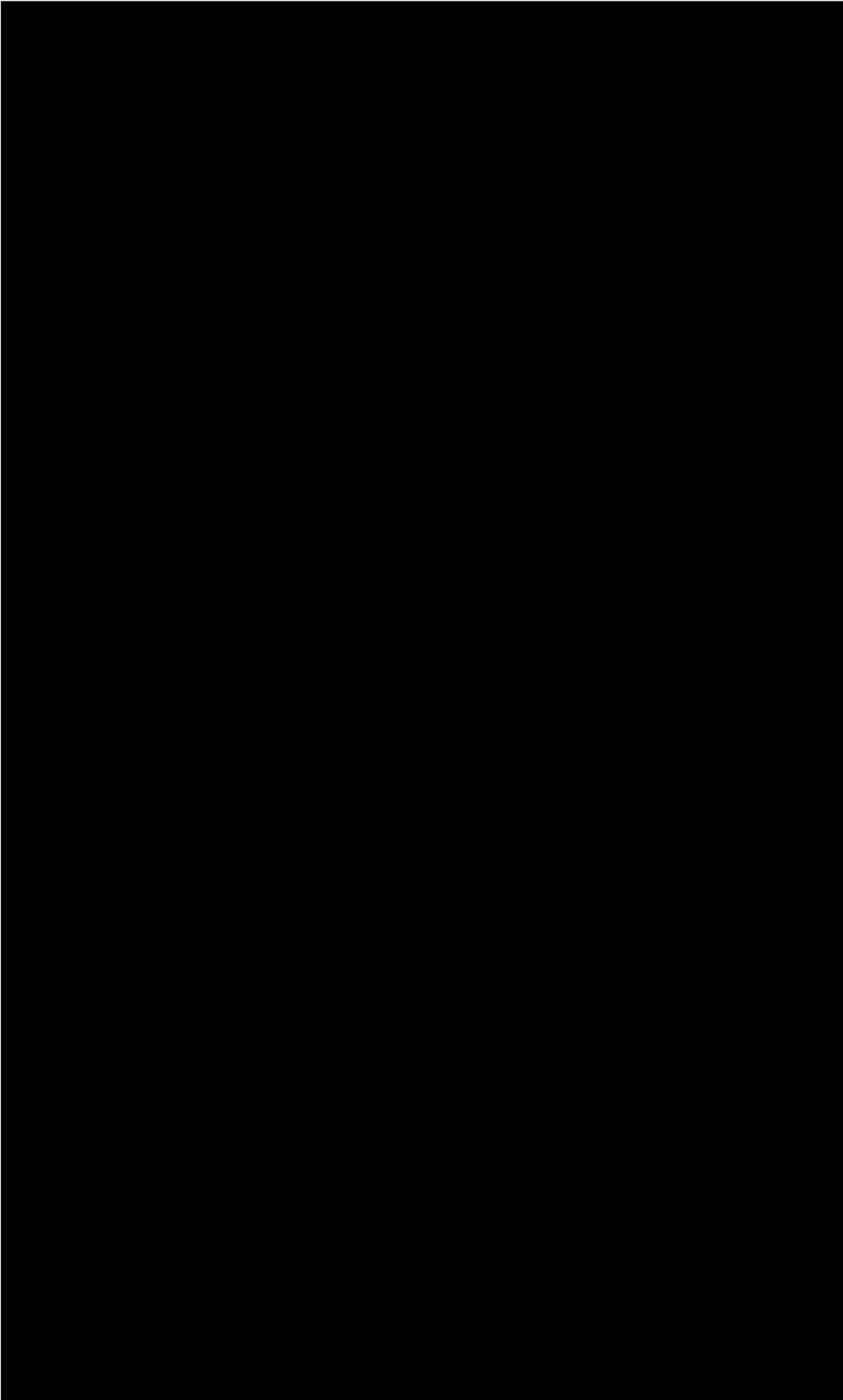
²⁶⁸⁴ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 14 June 2019, 34 [170], VPL.0014.0040.0001 @.0034.

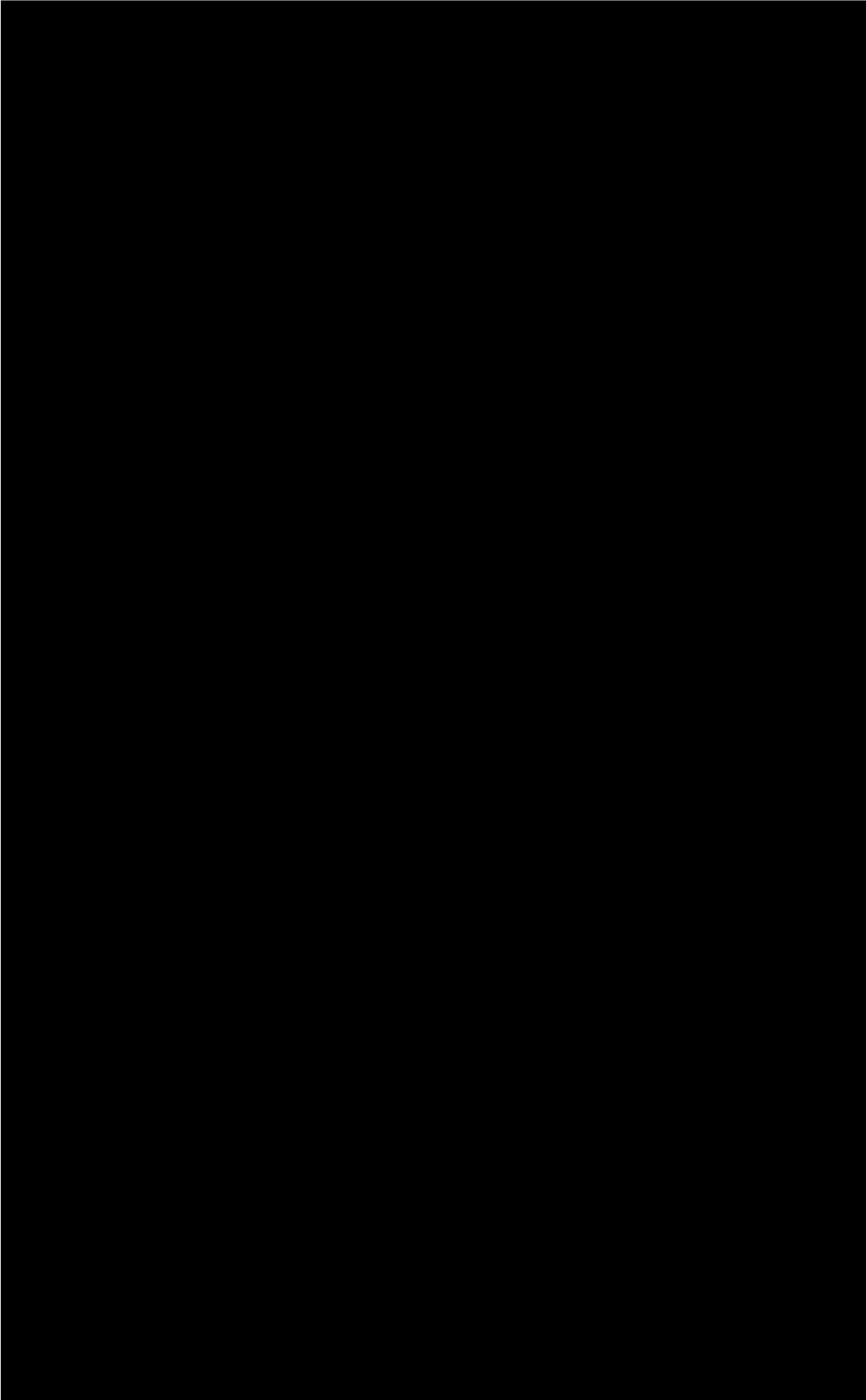
²⁶⁸⁵ Exhibit RC0464b Statement of Mr James (Jim) O'Brien (long), 14 June 2019, 34 [174], VPL.0014.0040.0001 @.0034.

²⁶⁸⁶ Exhibit RC0281 ICR3838 (028), 22 April 2006, 258-259, VPL.2000.0003.1844-.1845.

²⁶⁸⁷ Exhibit RC0577b Further statement Mr Anthony (Tony) Biggin, 25 July 2019, 9 [46], VPL.0014.0041.0008 @.0016.







Mr Flynn

1911. The following evidence is relevant to an analysis of Mr Flynn's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:
- 1911.1. during the relevant period, as a police member, Mr Flynn was a public official
 - 1911.2. between 2002 and 2005 Mr Flynn held the rank of Detective Sergeant at the MDID during which time he reported to Mr O'Brien, and Mr Biggin²⁷¹⁶
 - 1911.3. during this period Mr Flynn had been involved in the arrest of Mr Cooper for serious drug related offences in 2002 (in relation to the Landslip Case)²⁷¹⁷ and again in 2003 (in relation to the Matchless Case).²⁷¹⁸ He was aware of Ms Gobbo's representation of Mr Cooper from late 2002,²⁷¹⁹ and dealt with Ms Gobbo in relation to plea negotiations in relation to those matters during and after committal proceedings in 2005²⁷²⁰
 - 1911.4. he assisted with arrangements for Mr Rowe and Mr Mansell to introduce Ms Gobbo to the SDU on 16 September 2005,²⁷²¹ and so knew from that date she was acting as a human source
 - 1911.5. he knew Ms Gobbo was providing information concerning Mr Cooper from that date – he also knew she was continuing to act for Mr Cooper at that time²⁷²²
 - 1911.6. he knew that once Ms Gobbo began providing information regarding Mr Cooper, that Victoria Police's plan involved arresting him on further offences to motivate him to co-operate with police
 - 1911.7. he was Investigation Leader in the Operation to arrest Mr Cooper and Mr Agrum.²⁷²³ He read Mr Cooper his rights. Mr Cooper told him he wanted Ms Gobbo to be contacted as his lawyer ²⁷²⁴
 - 1911.8. he was present and knew that Ms Gobbo attended to advise Mr Cooper on his arrest on 22 April 2006

²⁷¹⁶ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 2 [8], VPL.0014.0042.0001 @.0002.

²⁷¹⁷ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 2 [10], VPL.0014.0042.0001 @.0002.

²⁷¹⁸ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 3 [18], VPL.0014.0042.0001 @.0003.

²⁷¹⁹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 3 [16], VPL.0014.0042.0001 @.0003.

²⁷²⁰ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, [24]–[26], VPL.0014.0042.0001 @.0004, .0005.

²⁷²¹ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 5 [30]–[31], VPL.0014.0042.0001 @.0005.

²⁷²² Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 6 [34]–[36], VPL.0014.0042.0001 @.0006.

²⁷²³ Exhibit RC1751 Purana Taskforce, Operation Posse, Phase One, Operation Order, execution date to be determined, VPL.0099.0117.0289.

²⁷²⁴ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [48], VPL.0014.0042.0001 @.0009; Transcript of Inspector Dale Flynn, 30 September 2019, 6797, TRN.2019.09.30.01.C; Transcript of Inspector Dale Flynn, 1 October 2019, 6867, TRN.2019.10.01.01.C.

- 1911.9. when Ms Gobbo attended, he saw that her attendance to represent Mr Cooper was 'complex', because she had told the police of the very crime that led to his arrest²⁷²⁵
- 1911.10. he knew that evidence improperly obtained might lead to its exclusion²⁷²⁶
- 1911.11. he understood that depriving a person of their right to an independent lawyer was wrong ²⁷²⁷
- 1911.12. he knew that evidence against Mr Cooper had been obtained in circumstances which might lead to its exclusion.

- 1912. On the evidence, it is open to the Commissioner to find that between 16 September 2005 and 22 April 2006 Mr Flynn knew that:**
- 1912.1. Ms Gobbo was a barrister and human source**
 - 1912.2. Ms Gobbo was informing on Mr Cooper while purporting to act for him**
 - 1912.3. Ms Gobbo had a conflict of interest between her role as a human source for Victoria Police and legal representative of Mr Cooper**
 - 1912.4. it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
 - 1912.5. Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
 - 1912.6. Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

- 1913. Further, based on the conduct set out above, it is open to the Commissioner to find that between May 2006 and February 2007 (when he was sentenced), Mr Flynn continued to use Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Flynn knew that:**
- 1913.1. Ms Gobbo was a barrister and human source**

²⁷²⁵ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 9 [50], VPL.0014.0042.0001 @.0009.

²⁷²⁶ Transcript of Inspector Dale Flynn, 20 September 2019, 6651, TRN.2019.09.20.01.P.

²⁷²⁷ Transcript of Inspector Dale Flynn, 20 September 2019, 6658, TRN.2019.09.20.01.P.

- 1913.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1913.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1913.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1913.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1913.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Biggin

1914. The following evidence is relevant to an analysis of Mr Biggin's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:

- 1914.1. during the relevant period, as a police member, Mr Biggin was a public official
- 1914.2. in the period between 16 September 2005 and 22 April 2006, Mr Biggin was Superintendent in the Covert Support Division of the Intelligence and Covert Support Command Units.²⁷²⁸ On 1 July 2006, the SDU came under his functional control and began reporting to him
- 1914.3. in about October 2005, Mr Sandy White told Mr Biggin that Ms Gobbo was acting as a human source.²⁷²⁹ Mr Biggin thought this was unusual ²⁷³⁰
- 1914.4. at a meeting he attended²⁷³¹ on 5 October 2005 Ms Gobbo's value as a source was discussed ²⁷³²

²⁷²⁸ Exhibit RC0577b Further statement Mr Anthony (Tony) Biggin, 25 July 2019, 2-3 [12], VPL.0014.0041.0008 @.0009-.0010.

²⁷²⁹ Exhibit RC0577b Further statement Mr Anthony (Tony) Biggin, 25 July 2019, 3 [14], VPL.0014.0041.0008 @.0014.

²⁷³⁰ Exhibit RC0577b Further statement Mr Anthony (Tony) Biggin, 25 July 2019, 3 [15], VPL.0014.0041.0008 @.0015.

²⁷³¹ Along with Mr Sandy White, Mr Moloney, Mr Thomas, Mr Hill, Mr Hardie, Mr Cruze, Mr Flynn and Ms Burrows.

²⁷³² Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 5 October 2005, 199, VPL.0005.0155.0001 @.0199.

- 1914.5. on 16 February 2006 Mr Overland told him that Ms Gobbo was to be protected at all costs.²⁷³³ Mr Biggin's evidence was that this was an unusual thing for an Assistant Commissioner to do ²⁷³⁴
- 1914.6. he knew Victoria Police were using Ms Gobbo specifically for information concerning Operation Posse ²⁷³⁵
- 1914.7. he knew that Mr Cooper was a significant target of Operation Posse²⁷³⁶
- 1914.8. in early 2006 he suspected that Ms Gobbo was providing information against Mr Cooper ²⁷³⁷
- 1914.9. on 22 April 2006 he attended the Strathmore lab²⁷³⁸ and then was present at St Kilda Road Police Station during the events following Mr Cooper's arrest. On arrival, he was briefed by both Mr Ryan and Mr O'Brien.²⁷³⁹ As Mr Biggin was the most senior officer of Victoria Police available for Mr Flynn to speak to that evening, Mr Flynn briefed him as to the progress of events.²⁷⁴⁰ He knew that Ms Gobbo attended²⁷⁴¹ and that she was purporting to act for Mr Cooper.²⁷⁴² He watched Mr Sandy White and Mr Peter Smith talk to Ms Gobbo and he knew they were involved in her use as a human source.²⁷⁴³ He thought Ms Gobbo's attendance was normal barrister-client contact, although he now accepts that view was naïve²⁷⁴⁴
- 1914.10. he accepted that, in hindsight, a practising defence barrister with the clients and personal contacts that Ms Gobbo had and was assisting police as a human source, the potential for conflict was very obvious to anyone who knew those facts²⁷⁴⁵
- 1914.11. his audit, conducted on 27 April 2006, or five days after Mr Cooper's arrest, provided him with significant details as to Ms

²⁷³³ Transcript of Mr Simon Overland, 17 December 2019, 11472, TRN.2019.12.17.01.P.

²⁷³⁴ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7508 -7509, TRN.2019.10.09.01 [not yet published].

²⁷³⁵ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7505, TRN.2019.10.09.01 [not yet published].

²⁷³⁶ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7504, TRN.2019.10.09.01 [not yet published].

²⁷³⁷ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7508, TRN.2019.10.09.01 [not yet published].

²⁷³⁸ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7510, TRN.2019.10.09.01 [not yet published].

²⁷³⁹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7514, TRN.2019.10.09.01 [not yet published]; Exhibit RC0577b Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 9 [46], VPL.0014.0041.0008 @.0016.

²⁷⁴⁰ Transcript of Inspector Dale Flynn, 30 September 2019, 6807-6808, 6814-6816, TRN.2019.09.30.01.C.

²⁷⁴¹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7514, TRN.2019.10.09.01 [not yet published].

²⁷⁴² Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7501, 7515, TRN.2019.10.09.01 [not yet published].

²⁷⁴³ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7520, TRN.2019.10.09.01 [not yet published].

²⁷⁴⁴ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7516, TRN.2019.10.09.01 [not yet published].

²⁷⁴⁵ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7502, TRN.2019.10.09.01 [not yet published].

Gobbo's informing on Mr Cooper.²⁷⁴⁶ He accepted that at that time he should have insisted on legal advice being obtained.²⁷⁴⁷

1915. **On the evidence, it is open to find that from early 2006 when Mr Biggin suspected that Ms Gobbo was providing information against Mr Cooper, given his senior rank, and despite not having operational control over the SDU, he should have investigated his suspicions, confirmed whether or not Ms Gobbo was acting for Mr Cooper and, once confirmed, taken appropriate action to prevent possible tainted information and evidence being obtained and utilised.**

1916. **On the evidence, it is open to the Commissioner to find that on 22 April 2006, Mr Biggin knew that:**

- 1916.1. **Ms Gobbo was a barrister and human source**
- 1916.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1916.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1916.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1916.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1916.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1917. **Further, based on the conduct set out above, the audit he conducted on 27 April 2006 and his assuming functional control of the SDU in 1 July 2006, it is open to the Commissioner to find that between May 2006 and February 2007 (when Mr Cooper was sentenced), Mr Biggin was aware of the continued use of Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper in order to**

²⁷⁴⁶ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7525, TRN.2019.10.09.01 [not yet published].

²⁷⁴⁷ Exhibit RC0577c Second Statement of Anthony (Tony) Biggin, 25 July 2019, 12-3 [62], VPL.0014.0041.0008 @.0019-.0020; Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7525, 7543, 7561, TRN.2019.10.09.01 [not yet published].

ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Biggin knew that:

- 1917.1. **Ms Gobbo was a barrister and human source**
- 1917.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1917.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1917.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1917.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1917.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Rowe

1918. The following evidence is relevant to an analysis of Mr Rowe's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:
 - 1918.1. during the relevant period, as a police member, Mr Rowe was a public official
 - 1918.2. from the time of her approach to Mr Rowe and Mr Mansell, Mr Rowe knew that Ms Gobbo was a practising criminal barrister who was willing to assist police against her client, Mr Tony Mokbel
 - 1918.3. he understood that a lawyer acting ethically would not act for a person if they were conflicted, as they could not be independent and act in the person's best interests.²⁷⁴⁸ He understood that it would be a perversion of the justice system if a lawyer was representing two conflicting interests when one of those being represented did not know²⁷⁴⁹
 - 1918.4. he knew Ms Gobbo should not be representing people she was informing on, and knew that she continued to do so²⁷⁵⁰

²⁷⁴⁸ Transcript of Detective Sergeant Paul Rowe, 28 June 2019, 3247-49 [47], 3255-57, TRN.2019.06.28.01.P.

²⁷⁴⁹ Transcript of Detective Sergeant Paul Rowe, 1 July 2019, 3300-1, TRN.2019.07.01.P.

²⁷⁵⁰ Transcript of Detective Sergeant Paul Rowe, 19 November 2019, 9466, TRN.2019.11.19.01 [not yet published].

- 1918.5. on 16 September 2005 in Mr Rowe's presence, Ms Gobbo said she was acting for Mr Cooper and freely provided information about him²⁷⁵¹
- 1918.6. from that time and until Mr Cooper's arrest, Mr Rowe knew Ms Gobbo continued to inform on Mr Cooper²⁷⁵²
- 1918.7. Prior to Mr Cooper's arrest, Mr Rowe knew that, upon Mr Cooper's arrest, it would be legally problematic for Ms Gobbo to attend and advise Mr Cooper ²⁷⁵³
- 1918.8. On 22 April 2006, he and Mr Flynn interviewed Mr Cooper when he commenced assisting police.²⁷⁵⁴ He saw Ms Gobbo attend to advise Mr Cooper.²⁷⁵⁵ He was involved in the operations in the days following Mr Cooper 's arrest, in which Mr Cooper was used to implicate criminal associates.

1919. On the evidence, it is open to the Commissioner to find that between 16 September 2005 and 22 April 2006, Mr Rowe knew that:

- 1919.1. **Ms Gobbo was a barrister and human source**
- 1919.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1919.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1919.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1919.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1919.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1920. Further, due to his involvement in the investigation and prosecution of people Mr Cooper implicated, it is open to the Commissioner to find that between May 2006 and February 2007 (when he was sentenced), Mr Rowe was aware of the continued use of Ms Gobbo (who Mr Cooper understood to

²⁷⁵¹ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4-5, VPL.2000.0003.1590-91.

²⁷⁵² Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9184, TRN.2019.11.13.01.P.

²⁷⁵³ Transcript of Detective Sergeant Paul Rowe, 19 November 2019, 9511, TRN.2019.11.19.01 [not yet published].

²⁷⁵⁴ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 10 [53], VPL.0014.0042.0001 @.0010.

²⁷⁵⁵ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9194, TRN.2019.11.13.01.P.

be his lawyer) as a human source against Mr Cooper in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Rowe knew that:

- 1920.1. **Ms Gobbo was a barrister and human source**
- 1920.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1920.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1920.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1920.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1920.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Kelly

1921. The following evidence is relevant to an analysis of Mr Kelly's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:
 - 1921.1. during the relevant period, as a police member, Mr Kelly was a public official
 - 1921.2. Mr Kelly became aware that Ms Gobbo was acting as a human source in around early March 2006, shortly after he commenced at the Purana Taskforce²⁷⁵⁶
 - 1921.3. Mr O'Brien would verbally pass on information to him, identifying that it came from Ms Gobbo²⁷⁵⁷
 - 1921.4. at times, members of the SDU would tell him that particular information had come from Ms Gobbo²⁷⁵⁸
 - 1921.5. he conducted surveillance on Mr Cooper's [REDACTED] party on [REDACTED] 2006²⁷⁵⁹
 - 1921.6. on 18 April 2006, he participated in a briefing in relation to Operation Posse in which they discussed 'a strategy' for the

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

approach to the interview of Mr Cooper upon his forthcoming arrest²⁷⁶⁰

- 1921.7. he attended the Strathmore lab on 22 April 2006²⁷⁶¹ and was aware that Mr Cooper and Mr Agrum both asked for Ms Gobbo to represent them at that time²⁷⁶²
- 1921.8. He was at St Kilda Road Police Station when Ms Gobbo attended to purportedly represent Mr Cooper and Mr Agrum.²⁷⁶³ He facilitated calls between the men and Ms Gobbo. He collected Ms Gobbo from reception and took her to the Purana Operations room on the 16th floor²⁷⁶⁴
- 1921.9. He was 'not completely comfortable with Ms Gobbo attending as [Mr Cooper] lawyer'.²⁷⁶⁵ He knew Ms Gobbo had been the source of relevant information concerning Mr Cooper.²⁷⁶⁶ His evidence, and the comfort he says he took from assurances from Mr O'Brien, demonstrates that he well-understood the risks to the proper administration of justice which the relationship between Ms Gobbo and Victoria Police posed.²⁷⁶⁷ As a Sergeant, Mr Kelly was a supervisor of others, and he in turn was supervised by his Detective Inspector, Mr O'Brien. His discomfort and the assurances of Mr O'Brien make it readily apparent why Parliament established the obligation to report a reasonable belief of serious misconduct to a different senior officer.²⁷⁶⁸

1922. **On the evidence, it is open to the Commissioner to find that between early March 2006 and 22 April 2006 Mr Kelly knew that:**
- 1922.1. **Ms Gobbo was a barrister and human source**
 - 1922.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
 - 1922.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**

[REDACTED]

²⁷⁶⁸ Further analysis can be found in the chapter concerning legal principles, however at the relevant time, the obligation was found in 86L(2A) of the *Police Regulation Act*.
A member of the force must make a complaint to a member of the force of a more senior rank to that member, or to the Director, about the conduct of another member of the force if he or she has reason to believe that the other member is guilty of serious misconduct.

- 1922.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1922.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1922.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1923. **Further, due to his involvement in the investigation and prosecution of people Mr Cooper implicated, it is open to the Commissioner to find that between May 2006 and February 2007 (when Mr Cooper was sentenced), Mr Kelly was aware of the continued use of Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Kelly knew that:**

- 1923.1. **Ms Gobbo was a barrister and human source**
- 1923.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1923.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1923.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1923.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1923.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Sandy White

1924. The following evidence is relevant to an analysis of Mr Sandy White's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:

- 1924.1. during the relevant period, as a police member, Mr Sandy White was a public official

- 1924.2. on 16 September 2005, Ms Gobbo told Mr Sandy White (and Mr Peter Smith, Mr Rowe and Mr Mansell) that she was acting for Mr Cooper and freely provided information about him²⁷⁶⁹
- 1924.3. on 28 October 2005, Ms Gobbo told Mr Sandy White (and Mr Peter Smith and Mr Black) that it would be legally problematic for her to continue to act for Mr Cooper while covertly providing Victoria Police with information concerning him²⁷⁷⁰
- 1924.4. Mr Sandy White was personally involved in the meetings with his superiors and members of the Purana Taskforce concerning Ms Gobbo between September 2005 and April 2006 set out above
- 1924.5. Mr Sandy White knew throughout the period from 16 September 2005 and 22 April 2006 that Ms Gobbo was continuing to both act for, and inform on, Mr Cooper
- 1924.6. on 20 April 2006, Mr Sandy White (together with Mr Peter Smith and Mr Green) knew that upon Mr Cooper's impending arrest, Ms Gobbo would attend to represent Mr Cooper. He (together with Mr Peter Smith and Mr Green) knew that would have ethical implications. He (together with Mr Peter Smith and Mr Green) knew that fact posed serious risks to the proper administration of justice²⁷⁷¹
- 1924.7. on 22 April 2006, when Ms Gobbo attended to advise Mr Cooper, he was aware (as were Mr Green and Mr Peter Smith) of that fact.²⁷⁷² He received updates regarding Mr Cooper considering whether he would assist Victoria Police.²⁷⁷³ He was so concerned about Ms Gobbo's attendance that he considered arresting her.²⁷⁷⁴ He discussed his troubles with the situation with Mr O'Brien afterwards.²⁷⁷⁵

1925. On the evidence, it is open to the Commissioner to find that between 16 September 2005 and 22 April 2006 Mr Sandy White knew that:

1925.1. Ms Gobbo was a barrister and human source

²⁷⁶⁹ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4-5, VPL.2000.0003.1590-91.

²⁷⁷⁰ Exhibit RC0626B Transcript of conversation between Sandy White, Peter Smith, Black and Nicola Gobbo, 28 October 2005, 139, VPL.0005.0051.0336 @.0474.

²⁷⁷¹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 272, VPL.0005.0111.0001 @.0282.

Mr Sandy White: Look, purely a technical point of view, if – if you talk to [Mr Cooper] and give him legal advice before he's interviewed and he makes a confession - and I'm speaking theoretically here, right.

Ms Gobbo: Yeah.

Mr Sandy White: O.K. I'm not saying this is gunna happen.

Ms Gobbo: Mm'hm.

Mr Sandy White: But wouldn't - wouldn't it be the case down the track that a defence barrister could argue, well, the advice that he got prior to participating in the record of interview was not impartial because it was done on behalf of the police by a person that was acting for the police.

Ms Gobbo: Who in the fuck is gunna say that?

²⁷⁷² Transcript of Mr Sandy White, 6 August 2019, 3989, TRN.2019.08.06.01.C.

²⁷⁷³ Transcript of Mr Sandy White, 6 August 2019, 3993, TRN.2019.08.06.01.C.

²⁷⁷⁴ Transcript of Mr Sandy White, 31 July 2019, 3622, TRN.2019.07.31.01 [not yet published].

²⁷⁷⁵ Transcript of Mr James (Jim) O'Brien, 6 September 2019, 5748, TRN.2019.09.06.01.C.

- 1925.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1925.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1925.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1925.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1925.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1926. **Further, based on the conduct set out above, and his senior role within the SDU, it is open to the Commissioner to find that between May 2006 and February 2007 (when Mr Cooper was sentenced), Mr Sandy White continued to use Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Sandy White knew that:**

- 1926.1. **Ms Gobbo was a barrister and human source**
- 1926.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1926.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1926.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1926.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1926.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Peter Smith

1927. The following evidence is relevant to an analysis of Mr Peter Smith's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:
- 1927.1. during the relevant period, as a police member, Mr Peter Smith was a public official
 - 1927.2. on 16 September 2005, Ms Gobbo told Mr Peter Smith (and Mr Sandy White, Mr Rowe and Mr Mansell) that she was acting for Mr Cooper and freely provided information about him²⁷⁷⁶
 - 1927.3. he was Ms Gobbo's handler during much of the period 16 September 2005 to 22 April 2006 and received considerable information from Ms Gobbo, including in relation to Mr Cooper²⁷⁷⁷
 - 1927.4. on 28 October 2005, Ms Gobbo told Mr Peter Smith (and Mr Sandy White and Mr Black) that it would be legally problematic for her to continue to act for Mr Cooper while covertly providing Victoria Police with information concerning him²⁷⁷⁸
 - 1927.5. Mr Peter Smith was personally involved in a number of the meetings with his superiors and members of the Purana Taskforce concerning Ms Gobbo between September 2005 and April 2006 set out above
 - 1927.6. Mr Peter Smith knew throughout the period from 16 September 2005 and 22 April 2006 that Ms Gobbo was continuing to both act for, and inform on, Mr Cooper
 - 1927.7. on 20 April 2006, Mr Peter Smith (together with Mr Sandy White and Mr Green) knew that upon Mr Cooper's impending arrest, Ms Gobbo would attend to represent Mr Cooper. He (together with Mr Sandy White and Mr Green) knew that would have ethical implications. He (together with Mr Sandy White and Mr Green) knew that fact posed serious risks to the proper administration of justice²⁷⁷⁹
 - 1927.8. on 22 April 2006, in the hours prior to Mr Cooper's arrest, Mr Peter Smith contacted Ms Gobbo to tell her that Mr Cooper's arrest was

²⁷⁷⁶ Exhibit RC0281 ICR3838 (001), 16 September 2005, 4-5, VPL.2000.0003.1590-1591.

²⁷⁷⁷ Exhibit RC0281 ICR3838 (001)-(008), 16 September 2005 to 25 November 2005, 1-62, VPL.2000.0003.1587-.1648; Exhibits RC0281 ICR3838 (015)-(018), 3 January 2006 to 17 February 2006, 109-156, VPL.2000.0003.1695-.1742; Exhibit RC0281 ICR3838 (023)-(025), 15 March 2006 to 12 April 2006, VPL.2000.0003.1776-1822; Exhibit RC0281 ICR3838 (028), 18 April 2006 to 25 April 2006, 249-267, VPL.2000.0003.1835-1853.

²⁷⁷⁸ Exhibit RC0626B Transcript of conversation between Sandy White, Peter Smith, Black and Nicola Gobbo, 28 October 2005, 139, VPL.0005.0051.0336 @.0474.

²⁷⁷⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 272, VPL.0005.0111.0001 @.0282.

Mr Sandy White: Look, purely a technical point of view, if – if you talk to [Mr Cooper] and give him legal advice before he's interviewed and he makes a confession - and I'm speaking theoretically here, right.

Ms Gobbo: Yeah.

Mr Sandy White: O.K. I'm not saying this is gunna happen.

Ms Gobbo: Mm'hm.

Mr Sandy White: But wouldn't - wouldn't it be the case down the track that a defence barrister could argue, well, the advice that he got prior to participating in the record of interview was not impartial because it was done on behalf of the police by a person that was acting for the police.

Ms Gobbo: Who in the fuck is gunna say that?

imminent and to tell Victoria Police if she had contact from Mr Cooper²⁷⁸⁰

- 1927.9. Mr Peter Smith expected Ms Gobbo to attend the St Kilda Road Police Station as Mr Cooper's (ostensible) lawyer following his arrest. He told her to [REDACTED] when she attended²⁷⁸¹
- 1927.10. Mr Peter Smith was the first to tell Ms Gobbo of Mr Cooper's arrest.²⁷⁸² When Ms Gobbo told him about the two handguns in the lab,²⁷⁸³ he immediately conveyed that information to Mr O'Brien²⁷⁸⁴
- 1927.11. on the evening of 22 April 2006, he was in attendance and intimately involved in many aspects of the 'rolling' of Mr Cooper, including the use of Ms Gobbo for that purpose.²⁷⁸⁵ He assisted with the 'pitch' to Mr Cooper.²⁷⁸⁶ He covertly met with Ms Gobbo following the relevant events, during which Ms Gobbo told him that she had 'pushed' Mr Cooper to roll.²⁷⁸⁷

1928. On the evidence, it is open to the Commissioner to find that between 16 September 2005 and 22 April 2006 Mr Peter Smith knew that:

- 1928.1. Ms Gobbo was a barrister and human source**
- 1928.2. Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1928.3. Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1928.4. it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1928.5. Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1928.6. Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

²⁷⁸⁰ See Exhibit RC0281 ICR3838 (028), 22 April 2006, 258, VPL.2000.0003.1844.

²⁷⁸² Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁷⁸³ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁷⁸⁴ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁷⁸⁵ Transcript of Inspector Dale Flynn, 30 September 2019, 6816, 6818-6819, TRN.2019.09.30.01.C.

²⁷⁸⁷ Exhibit RC0548 Transcript of meeting between Nicola Gobbo, Peter Smith and Sandy White, 23 April 2006, 403, VPL.0005.0097.0372 @.0403; Transcript of Inspector Dale Flynn, 1 October 2019, 6877, TRN.2019.10.01.01.C [not yet published]; Transcript of Ms Nicola Gobbo, 6 February 2020, 13349-13350, TRN.2019.02.06.01.P.

1929. **Further, based on the conduct set out above, it is open to the Commissioner to find that between May 2006 and February 2007 (when Mr Cooper was sentenced), Mr Peter Smith continued to use Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Peter Smith knew that:**

- 1929.1. **Ms Gobbo was a barrister and human source**
- 1929.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1929.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1929.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1929.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1929.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Black

1930. The following evidence is relevant to an analysis of Mr Black's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:

- 1930.1. during the relevant period, as a police member, Mr Black was a public official
- 1930.2. on 18 October 2005, Mr Black was provided a full briefing on the status of Ms Gobbo's role as a human source, as he was to act as her co-handler with Mr Peter Smith ²⁷⁸⁸
- 1930.3. he was Ms Gobbo's handler and/or co-handler during periods of time between 16 September 2005 and 22 April 2006
- 1930.4. he received considerable information from Ms Gobbo, including in relation to Mr Cooper²⁷⁸⁹

²⁷⁸⁸ Exhibit RC0284 SML3838, 18 October 2005, 4, VPL.2000.0001.9447 @.9450; Exhibit RC0292 Sandy White diary, 18 October 2005, 34, VPL.2000.0001.0440 @.0473.

²⁷⁸⁹ Exhibit RC0281 ICR3838 (009)-(014), 25 November 2005 to 2 January 2006, 63-108, VPL.2000.0003.1649-1694; Exhibit RC0281 ICR3838 (026), 12 April 2006 to 13 April 2006, 237-240 VPL.2000.0003.1823-.1826.

- 1930.5. he knew Ms Gobbo was acting for Mr Cooper throughout the relevant period
- 1930.6. he tasked Ms Gobbo against Mr Cooper in the manner set out above, and received ideas from Ms Gobbo as to how to 'roll' Mr Cooper in the manner set out above
- 1930.7. on 28 October 2005, Ms Gobbo told Mr Black (and Mr Sandy White and Mr Peter Smith) that it would be legally problematic for her to continue to act for Mr Cooper while covertly providing Victoria Police with information concerning him.²⁷⁹⁰

1931. **On the evidence, it is open to the Commissioner to find that between 16 September 2005 and 22 April 2006 Mr Black knew that:**
- 1931.1. **Ms Gobbo was a barrister and human source**
 - 1931.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
 - 1931.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
 - 1931.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
 - 1931.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
 - 1931.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Mr Green

- 1932. The following evidence is relevant to an analysis of Mr Green's knowledge and conduct in relation to the use, management and disclosure of Ms Gobbo's role as a human source concerning Mr Cooper:
 - 1932.1. during the relevant period, as a police member, Mr Green was a public official
 - 1932.2. he was Ms Gobbo's handler during periods of time between 16 September 2005 and 22 April 2006 and received considerable information from Ms Gobbo, including in relation to Mr Cooper²⁷⁹¹

²⁷⁹⁰ Exhibit RC0626B Transcript of conversation between Sandy White, Peter Smith, Black and Nicola Gobbo, 28 October 2005, 139, VPL.0005.0051.0336 @.0474.

²⁷⁹¹ Exhibit RC0281 ICR3838 (019)-(022), 17 February 2006 to 15 March 2006, 157-189, VPL.2000.0003.1743-.1775; Exhibit RC0281 ICR3838 (027), 13 April 2006 to 18 April 2006, 241-248, VPL.2000.0003.1827-1834.

- 1932.3. he received considerable information from Ms Gobbo, including in relation to Mr Cooper²⁷⁹²
- 1932.4. he knew Ms Gobbo was acting for Mr Cooper throughout the relevant period
- 1932.5. on 20 April 2006, Mr Green (together with Mr Sandy White and Mr Peter Smith) knew that upon Mr Cooper's impending arrest, Ms Gobbo would attend to represent Mr Cooper. He (together with Mr Sandy White and Mr Peter Smith) knew that would have ethical implications. He (together with Mr Sandy White and Mr Peter Smith) knew that fact posed serious risks to the proper administration of justice²⁷⁹³
- 1932.6. he was in attendance and had discussions with Ms Gobbo when she attended to advise Mr Cooper on 22 April 2006²⁷⁹⁴
- 1932.7. after she left the police complex on 22 April 2006, Ms Gobbo told Mr Green and Mr Peter Smith that she had 'push[ed] [Mr Cooper] over the line tonight',²⁷⁹⁵ and that she had 'helped' Mr Cooper that evening, by having 'looked after his interests', and that 'he'll appreciate it in time.'²⁷⁹⁶

1933. On the evidence, it is open to the Commissioner to find that between 16 September 2005 and 22 April 2006 Mr Green knew that:

- 1933.1. Ms Gobbo was a barrister and human source**
- 1933.2. Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1933.3. Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**

²⁷⁹² Exhibit RC0281 ICR3838 (019), 17 February 2006 to 23 February 2020, 157-164, VPL.2000.0003.1743-1750; Exhibit RC0281 ICR3838 (020), 24 February 2006 – 2 March 2006, 165-174, VPL.2000.0003.1751-1760; Exhibit RC0281 ICR3838 (021), 3 March 2006 – 9 March 2006, 175-182, VPL.2000.0003.1761-1786; Exhibit RC0281 ICR3838 (022), 10 March 2006 – 15 March 2006, 183-189, VPL.2000.0003.1769-1775.

²⁷⁹³ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, 272, VPL.0005.0111.0001 @.0282.

Mr Sandy White: Look, purely a technical point of view, if – if you talk to [Mr Cooper] and give him legal advice before he's interviewed and he makes a confession - and I'm speaking theoretically here, right.

Ms Gobbo: Yeah.

Mr Sandy White: O.K. I'm not saying this is gunna happen.

Ms Gobbo: Mm'hm.

Mr Sandy White: But wouldn't - wouldn't it be the case down the track that a defence barrister could argue, well, the advice that he got prior to participating in the record of interview was not impartial because it was done on behalf of the police by a person that was acting for the police.

Ms Gobbo: Who in the fuck is gunna say that?

²⁷⁹⁴ Exhibit RC0281 ICR3838 (028), 22 April 2006, 259, VPL.2000.0003.1845.

²⁷⁹⁵ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 17, VPL.0005.0104.0001 @.0017; Transcript of Inspector Dale Flynn, 3 October 2019, 7183, TRN.2019.10.03.01 [not yet published], in which Mr Flynn accepts that Ms Gobbo "helped ... convince [Mr Cooper] to become a witness".

²⁷⁹⁶ Exhibit RC0546 Transcript of meeting between Nicola Gobbo, Peter Smith and Green, 22 April 2006, 17, VPL.0005.0104.0001 @.0017; Transcript of Mr Peter Smith, 11 September 2019, 6121-3, TRN. 2019.09.11.01.C.

- 1933.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1933.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1933.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

1934. **Further, based on the conduct set out above, it is open to the Commissioner to find that between May 2006 and February 2007 (when Mr Cooper was sentenced), Mr Green continued to use Ms Gobbo (who Mr Cooper understood to be his lawyer) as a human source against Mr Cooper in order to ensure that Mr Cooper would implicate his criminal associates, in circumstances where Mr Green knew that:**

- 1934.1. **Ms Gobbo was a barrister and human source**
- 1934.2. **Ms Gobbo was informing on Mr Cooper while purporting to act for him**
- 1934.3. **Ms Gobbo had a conflict of interest between her role as an informer for Victoria Police and legal representative of Mr Cooper**
- 1934.4. **it was Ms Gobbo's informing on Mr Cooper that led to the obtaining of incriminating evidence against Mr Cooper and led to his arrest on 22 April 2006**
- 1934.5. **Ms Gobbo was being used by Victoria Police to encourage Mr Cooper to implicate his associates, or alternatively that Victoria Police was allowing Ms Gobbo to do so**
- 1934.6. **Victoria Police had no intention to disclose Ms Gobbo's role to Mr Cooper or anyone Mr Cooper made statements against.**

Misconduct of Mr Overland, Mr O'Brien, ██████████, Mr Flynn, Mr Biggin, Mr Rowe, Mr Kelly, Mr Sandy White, Mr Peter Smith, Mr Black and Mr Green

1935. **It is submitted that the respective conduct of each of the above current and former members of Victoria Police may have constituted:**

- 1935.1. **a breach of discipline under section 125 of the Victoria Police Act, as conduct which was likely to**



Part 6 – Impact of Conduct related to Mr Cooper on Subsequent Cases

Statements of Mr Cooper and the Use of him as a Prosecution Witness

Statements Made by Mr Cooper

1939. In the end, Mr Cooper made some 45 statements for Victoria Police, implicating dozens of persons in criminal activity, as set out in the following table:²⁸⁰²

	Date	Subject matter	Persons implicated
1.	24 April 2006	Meeting with Mr Bickley on 24.04.2006. ²⁸⁰³	Mr Bickley
2.	24 April 2006	Conversation with Tony Bayeh, Horty Mokbel and Milad Mokbel. ²⁸⁰⁴	Tony Bayeh Horty Mokbel Milad Mokbel
3.	25 April 2006	Meeting with Horty Mokbel and Milad Mokbel on 24 April 2006. ²⁸⁰⁵	Horty Mokbel Milad Mokbel Habib Mokbel
4.	25 April 2006	Meeting with Milad Mokbel and arrest at [REDACTED] Brunswick on 25 April 2006. ²⁸⁰⁶	Milad Mokbel Mr Keene (a pseudonym)
5.	6 August 2006	'Historical' statement as to how Mr Cooper first met the Mokbels, and various 'cooks' he completed for the Mokbels. ²⁸⁰⁷	Tony Mokbel Paul Howden A relative Noel Laurie Milad Mokbel Kabalan Mokbel Nick Radev Carl Williams Mr Luxmore Joe Scuderi Jason Moran Jacques El-Hage [REDACTED] Mr Boyd (a pseudonym) Danny Kettle Shane Moran

²⁸⁰¹ See above at 1874 [300], [506]-[509].

and Legal Principles Submissions at [278]-

²⁸⁰² The detail in the table has been sourced from: Victoria Police, Person 14 - Annexure 1, 28 October 2019, VPL.0099.0030.0001; Office of Public Prosecutions, Table of Cooper' Evidence, 23 December 2019, OPP.0050.0002.0011.

²⁸⁰³ Exhibit RC1591 Statement of Mr Cooper, 24 April 2006, 154, RCMP.0028.0003.0001 @.0154.

²⁸⁰⁴ Exhibit RC1595 Statement of Mr Cooper, 24 April 2006, 110, RCMP.0028.0003.0001 @.0110.

²⁸⁰⁵ Exhibit RC1606 Statement of Mr Cooper, 25 April 2006, 115, RCMP.0028.0003.0001 @.0115.

²⁸⁰⁶ Exhibit RC1604 Statement of Mr Cooper, 25 April 2006, 112, RCMP.0028.0003.0001 @0112.

²⁸⁰⁷ Exhibit RC1609 Statement of Mr Cooper, 6 August 2006, VPL.0203.0001.0216.



6.	6 August 2006	[REDACTED] Preston. ²⁸⁰⁸	Mr Boyd [REDACTED] [REDACTED] Steve Cvetanovski Mr Agrum Danny Kettyle Milad Mokbel Horty Mokbel 'Dennis' [REDACTED]
7.	6 August 2006	Mr Keene. ²⁸⁰⁹	Mr Keene Milad Mokbel
8.	6 August 2006	Chemical list provided by Horty Mokbel. ²⁸¹⁰	Horty Mokbel Tony Bayeh
9.	6 August 2006	Safety Deposit Box. ²⁸¹¹	Milad Mokbel Tony Mokbel
10.	6 August 2006	Notebook. ²⁸¹²	Milad Mokbel Jacques El-Hage Carl Williams Kabalan Mokbel 'Max' Kabalan Mokbel 'George B' Jason Moran 'Dennis' (Dennis Reardon)
11.	6 August 2006	Cook at 'The Grove'. ²⁸¹³	Danny Kettyle Mr Boyd Horty Mokbel Andrew 'Mazarati'
12.	6 August 2006	Gisborne lab. ²⁸¹⁴	Tony Mokbel [REDACTED] 'Nigel' Carl Williams Mr Luxmore Horty Mokbel
13.	6 August 2006	Mr Boyd. ²⁸¹⁵	Mr Boyd Tony Mokbel Carl Williams Milad Mokbel [REDACTED] Horty Mokbel
14.	6 August 2006	Mr Bickley. ²⁸¹⁶	Mr Bickley Tony Mokbel Steve Cvetanovski Savas Pastras

²⁸⁰⁸ Exhibit RC1610 Statement of Mr Cooper, 6 August 2006, VPL.0209.0001.0164.

²⁸⁰⁹ Exhibit RC1611 Statement of Mr Cooper, 6 August 2006, 115, OPP.0050.0002.0007 @.0115.

²⁸¹⁰ Exhibit RC1612 Statement of Mr Cooper, 6 August 2006, OPP.0007.0003.0076.

²⁸¹¹ Exhibit RC1613 Statement of Mr Cooper, 6 August 2006, VPL.0099.0062.0001 @.0156.

²⁸¹² Exhibit RC1614 Statement of Mr Cooper, 6 August 2006, VPL.0203.0001.0291.

²⁸¹³ Exhibit RC1615 Statement of Mr Cooper, 6 August 2006, VPL.0216.0003.0174.

²⁸¹⁴ Exhibit RC1616 Statement of Mr Cooper, 6 August 2006, VPL.0204.0008.0083.

²⁸¹⁵ Exhibit RC1617 Statement of Mr Cooper, 6 August 2006, VPL.0216.0003.0154.

²⁸¹⁶ Exhibit RC1618 Statement of Mr Cooper, 6 August 2006, VPL.0204.0008.0110.

15.	6 August 2006	[REDACTED]	[REDACTED] Milad Mokbel Renate Mokbel Tony Mokbel
16.	6 August 2006	[REDACTED]	[REDACTED] Andrew 'Mazarati' Steve Cvetanovski
17.	6 August 2006	Murder of Mark Mallia. ²⁸¹⁹	Milad Mokbel Andrew Venamin Nick Radev Willy Thompson Carl Williams
18.	6 August 2006	Newlands Road lab. ²⁸²⁰	Milad Mokbel Carl Williams Tony Mokbel Horst Friedemann Mr Boyd 'Max' 'George B' Mr Luxmore
19.	6 August 2006	Rye lab – Operation Matchless. ²⁸²¹	[REDACTED] Mr King Tony Mokbel Milad Mokbel Kabalan Mokbel Thomas Jacques El-Hage Carl Williams Mark Mallia Nick Radev Willy Thomson Ibrahim Kurnaz Heiner Hess Noel Laurie Joe Scuderi Jason Moran Andrew Venimin
20.	6 August 2006	Glassware. ²⁸²²	Milad Mokbel Tony Mokbel Heiner Hess
21.	6 August 2006	Savas Pastras. ²⁸²³	Savas Pastras Michael Pastras Shane Moran Tony Mokbel Horty Mokbel Joe Parisi Mr Luxmore

²⁸¹⁷ Exhibit RC1619 Statement of Mr Cooper, 6 August 2006, VPL.0204.0010.0150.

²⁸¹⁸ Exhibit RC1620 Statement of Mr Cooper, 6 August 2006, VPL.0209.0001.0634.

²⁸¹⁹ Exhibit RC1621 Statement of Mr Cooper, 6 August 2006, 189, VPL.0099.0062.0001 @.0189.

²⁸²⁰ Exhibit RC1622 Statement of Mr Cooper, 6 August 2006, VPL.0204.0008.0103.

²⁸²¹ Exhibit RC1596 Statement of Mr Cooper, 24 April 2006, 154, RCMP.0028.0003.0001 @.0028.

²⁸²² Exhibit RC1623 Statement of Mr Cooper, 6 August 2006, VPL.0203.0001.0235.

²⁸²³ Exhibit RC1624 Statement of Mr Cooper, 6 August 2006, VPL.0216.0003.0182.

22.	6 August 2006	Strathmore Lab. ²⁸²⁴	Shane Moran Milad Mokbel Tony Mokbel [REDACTED] Steve (Zlate) Cvetanovski Savas Pastras Horty Mokbel Mr Agrum Dennis Reardon Danny Kettyle Domenic Barbaro [REDACTED] [REDACTED]
23.	6 August 2006	Financial. ²⁸²⁵	Tony Mokbel Milad Mokbel
24.	6 August 2006	Tony Bayeh. ²⁸²⁶	Tony Bayeh (Toreq El-Bayeh) Horty Mokbel Steve (Zlate) Cvetanovski
25.	11 August 2006	Murder of Mario Condello. ²⁸²⁷	Mr Keene Horty Mokbel Milad Mokbel Mr Ketch Tony Mokbel Shane Moran 'Dennis' (Dennis Reardon)
26.	24 August 2006	Habib Mokbel. ²⁸²⁸	Habib Mokbel Milad Mokbel
27.	24 August 2006	Renate Mokbel. ²⁸²⁹	Renate Mokbel Milad Mokbel
28.	9 November 2006	Photo board relating to [REDACTED] [REDACTED], Venville, Kettyle. ²⁸³⁰	[REDACTED] 'Nigel' (Matthew Venville) Danny Kettyle
29.	13 November 2006	Assets and financial dealings of Milad Mokbel. ²⁸³¹	Milad Mokbel 'Aunty Maree'
30.	16 November 2006	Conspiracy to pervert the course of justice. ²⁸³²	Tony Mokbel Kabalan Mokbel Milad Mokbel Joe Parisi Solicitor 2 Tony Hargreaves Nicola Gobbo
31.	22 November 2006	Waiver of privilege in relation to Nicola Gobbo and Mr Hargreaves. ²⁸³³	

²⁸²⁴ Exhibit RC1625 Statement of Mr Cooper, 6 August 2006, VPL.0216.0003.0189.

²⁸²⁵ Exhibit RC1627 Statement of Mr Cooper, 6 August 2006, VPL.0204.0008.0115.

²⁸²⁶ Exhibit RC1626 Statement of Mr Cooper, 6 August 2006, 163, VPL.0099.0062.0001 @.0163.

²⁸²⁷ Exhibit RC1597 Statement of Mr Cooper, 11 August 2006, VPL.0099.0062.0001 @.0287.

²⁸²⁸ Exhibit RC1597 Statement of Mr Cooper, 24 August 2006, RCMP.0028.0003.0001 @.0001.

²⁸²⁹ Exhibit RC1598 Statement of Mr Cooper, 24 August 2006, VPL.0099.0062.0001 @.0275.

²⁸³⁰ Exhibit RC1628 Statement of Mr Cooper, 9 November 2006, VPL.0204.0008.0095.

²⁸³¹ Exhibit RC1583 Statement of Mr Cooper, 13 November 2006, RCMP.0028.0002.0001 @.0001.

²⁸³² Exhibit RC1586 Statement of Mr Cooper, 16 November 2006, VPL.0099.0062.0001 @.0280.

²⁸³³ Exhibit RC1598 Statement of Mr Cooper, 22 November 2006, VPL.0099.0062.0001 @.0285.

32.	20 February 2007	Stephen Gavanas. ²⁸³⁴	Stephen Gavanas Horty Mokbel Mr Boyd Stephen Coon [REDACTED] [REDACTED]
33.	11 May 2007	Events on and preceding 13 February 2002 regarding the fire at [REDACTED] Pascoe Vale South. ²⁸³⁵	Tony Mokbel
34.	11 May 2007	Waiver of Legal Privilege – Alex Lewenberg. ²⁸³⁶	
35.	11 May 2007	Further statement re [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
36.	14 May 2007	Contacting Horty Mokbel to arrange meeting on 24 April 2006. ²⁸³⁸	Horty Mokbel
37.	14 May 2007	Further statement regarding Strathmore. ²⁸³⁹	Mr Boyd Horty Mokbel 'Dennis' (Dennis Reardon)
38.	17 May 2007	Mr Boyd documents. ²⁸⁴⁰	Mr Boyd
39.	24 May 2007	Joe Ferola. ²⁸⁴¹	Max (Joe) Ferola Tony Mokbel
40.	1 August 2007	Agreement to purchase pill press from Thomas via Jacques El-Hage. ²⁸⁴²	Thomas Jacques El-Hage Milad Mokbel Tony Mokbel Horty Mokbel Glenn Wills
41.	31 January 2008	Steve Cvetanovski [REDACTED] [REDACTED]	Steve Cvetanovski Ibrahim Kurnaz Horty Mokbel [REDACTED] Mr Agrum 'Michael' Barbaro
42.	1 September 2008	LD Clarification. ²⁸⁴⁴	
43.	27 May 2009	Rosebud cooks. ²⁸⁴⁵	Tony Mokbel Milad Mokbel Kabalan Mokbel Nicolai Radev Jason Moran

²⁸³⁴ Exhibit RC1605 Statement of Mr Cooper, 2 February 2007, OPP.0007.0003.0080.

²⁸³⁵ Exhibit RC1580 Statement of Mr Cooper, 11 May 2007, OPP.0050.0002.0007 @.0263.

²⁸³⁶ Exhibit RC1581 Statement of Mr Cooper, 11 May 2007, VPL.0099.0062.0001 @.0303.

²⁸³⁷ Exhibit RC1582 Statement of Mr Cooper, 11 May 2007, OPP.0050.0002.0007 @.0266.

²⁸³⁸ Exhibit RC1584 Statement of Mr Cooper, 14 May 2007, OPP.0050.0002.0007 @.0246.

²⁸³⁹ Exhibit RC1585 Statement of Mr Cooper, 14 May 2007, OPP.0007.0003.0090.

²⁸⁴⁰ Exhibit RC1578 Statement of Mr Cooper, 17 May 2007, OPP.0050.0002.0007 @.0268

²⁸⁴¹ Exhibit RC1600 Statement of Mr Cooper, 24 May 2007, OPP.0050.0002.0007 @.0248.

²⁸⁴² Exhibit RC1578 Statement of Mr Cooper, 1 August 2007, OPP.0050.0002.0007 @.0133.

²⁸⁴³ Exhibit 1608 Statement of Mr Cooper, 31 January 2008, OPP.0007.0003.0094.

²⁸⁴⁴ This statement was identified by Victoria Police in 'Person 14 - Annexure 1', 27,

VPL.0099.0078.0001, however the Commission does not have a copy of this statement.

²⁸⁴⁵ Exhibit RC1607 Statement of Mr Cooper, 27 May 2009, RCMPI.0028.0002.0001 @.0004.

			██████████ Jacques El-Hage Thomas George Williams
44.	2 December 2009	Ibrahim Kurnaz. ²⁸⁴⁶	Ibrahim Kurnaz
45.	24 March 2011	Further statement regarding Steve Cvetanovski (further to the statement of 31 January 2008). ²⁸⁴⁷	Steve Cvetanovski

Cases in which Convictions or Findings of Guilt were Obtained where there was Reliance upon the Evidence of Mr Cooper

1940. According to information provided to the Commission by the OPP, the evidence of Mr Cooper was relied upon in the following cases in which convictions were obtained:²⁸⁴⁸

²⁸⁴⁶ Exhibit RC1588 Statement of Mr Cooper, 2 December 2009, RCMP1.0028.0002.0001 @.0007.

²⁸⁴⁷ Exhibit 1599 Statement of Mr Cooper, 24 March 2011, OPP.0007.0006.0010.

²⁸⁴⁸ See Office of Public Prosecutions, Annexure A: Witnesses and related accused matter outcomes, 29 May 2020, OPP.0056.0001.0001.

	Matter in which Mr Cooper's evidence relied upon (by reference to OPP matter ID number and related police operation)	Name of Accused	Dates of proceedings	Court in which the matter was determined
1.	0802278, 79 (Operation QUILLS)	Antonios MOKBEL	Arraigned, pleaded guilty on 18.04.11 Plea Hearing: 24.05.12, 03.07.12 Sentenced: 03.07.12	Melbourne Supreme Court
2.	0803500 (Operation MATCHLESS)	Jacques EL-HAGE	Arraigned, pleaded guilty on 08.07.11 Plea Hearing: 06.09.11 Sentenced: 20.09.11	Melbourne Supreme Court
3.	0803443 (Operation MATCHLESS)	Ibrahim KURNAZ	Arraigned, pleaded guilty on 30.01.12 Plea Hearing: 15.03.12 Sentenced: 20.03.12	Melbourne County Court
4.	0301781 (Operation MATCHLESS)	Mr King	Arraigned, pleaded guilty on 27.07.07 Plea Hearing: 08.10.07 Sentenced: 22.10.07	Melbourne County Court
5.	0301783 (Operation MATCHLESS)	Kabalan MOKBEL	Arraigned, pleaded guilty on 29.10.07 Plea Hearing: 12.11.07 Sentenced: 03.12.07	Melbourne County Court
6.	0703454 (Operation QUILLS)	Abdallah RADI	Arraigned, pleaded guilty on 05.02.09 Plea Hearing: 25.03.2009, 29.06.2009, 24.08.10; 25.08.10, 01.09.10 Sentenced: 21.09.10	Melbourne County Court
7.	0704211 (Operation QUILLS)	Ghazwan FARACHI	Arraigned, pleaded guilty on 03.03.09 Plea Hearing: 23.06.09, 29.06.09 Sentenced: 03.07.09	Melbourne County Court
8.	0503989 (Operation QUILLS)	Mr BICKLEY	Arraigned, pleaded guilty on 17.04.07 Plea Hearing: 09.05.07	Melbourne County Court

			Sentenced: 09.05.07	
9.	0801719 (Operation POSSE)	Zlate CVETANOVSKI	Found guilty by jury on 08.07.11 Plea Hearing: 27.02.12, 06.03.12, 14.03.12, 22.03.12 Sentenced: 13.04.12	Melbourne County Court
10.	0705899 (Operation POSSE)	Matthew John FINN	Found not guilty by jury on 03.06.11 Arraigned, pleaded guilty to a firearms charge on 10.06.11 Plea Hearing: 10.06.11 Sentenced: 15.06.11	Melbourne Supreme Court
11.	0602034 (Operation POSSE)	Toreq BAYEH	Found guilty by jury on 03.10.08 Plea Hearing: 10.12.08 Sentenced: 19.12.08	Melbourne Supreme Court
12.	0602467 (Operation POSSE)	Domenic BARBARO	Arraigned, pleaded guilty on 15.10.08 Plea Hearing: 05.11.08 Sentenced: 15.12.08	Melbourne County Court
13.	0604171 (Operation POSSE)	Mr Keene	Arraigned, pleaded guilty on 09.05.08 Plea Hearing: 09.05.08 Sentenced: 23.06.08	Melbourne County Court
14.	0701095 (Operation POSSE)	Mr Agrum	Arraigned, pleaded guilty on 24.05.07 Plea Hearing: 24.05.07, 28.05.07 Sentenced: 04.06.07	Melbourne County Court
15.	0703977 (Operation TOOL/DOTARD)	Horty MOKBEL	Arraigned, pleaded guilty on 02.08.10 Plea Hearing: 13.09.10, 17.09.10 Sentenced: 08.11.10	Melbourne Supreme Court
16.	0605064 (Operation DOTARD)	Stephen GAVANAS	Found guilty by jury on 19.06.10 Plea Hearing: 13.09.10 Sentenced: 08.11.10, 11.11.10	Melbourne Supreme Court
17.	0606065 (Operation TOOL/DOTARD)	Mohammed KHODR	Found guilty by jury on 19.06.10 Plea Hearing: 13.09.10 Sentenced: 08.11.10	Melbourne Supreme Court
18.	0701016	Garry James GIBBS	Arraigned, pleaded guilty on 21.08.07	Melbourne County Court

			Plea Hearing: 07.12.07 Sentenced: 07.12.07	
19.	0602044 (Operation POSSE)	Milad MOKBEL	Arraigned, pleaded guilty on Plea Hearing: 20.06.08 & 27.11.08 Sentenced: 17.12.08	Melbourne Supreme Court
20.	██████████	Mr Kearney	Arraigned, pleaded guilty on ██████.08 Plea Hearing: ██████.08 Sentenced: ██████.08	Melbourne County Court
21.	██████████	Mr Kelvin	Arraigned, pleaded guilty on ██████.08 Plea Hearing: ██████.08 Sentenced: ██████.08	Melbourne County Court
22.	0702447	Mr Boyd	Arraigned, pleaded guilty on 15.10.08 Plea Hearing: 15.10.08 Sentenced: 23.10.08	Melbourne County Court
23.	████████████████████ ██████████	Mr Saturn	Arraigned, pleaded guilty on ██████.08 Plea Hearing: ██████.08 Sentenced: ██████.08	Melbourne County Court
24.	████████████████████ ██████████	Mr Snyder (a pseudonym)	Arraigned, pleaded guilty on ██████████ Plea Hearing: ██████████ Sentenced: ██████████	Melbourne County Court

1941. The foregoing matters are the subject of case studies in Volume 3 of these submissions.

Evidence of Other Persons which may have been Obtained and Relied upon in Consequence of the Evidence and Assistance of Mr Cooper (and the Related Conduct of Ms Gobbo and Victoria Police)

1942. Certain persons named in the table above themselves subsequently took the course of assisting and co-operating with authorities. In some instances, it is submitted that it is open to find that the evidence of those persons (to the extent it was relied upon in subsequent prosecutions) may have also been obtained improperly or illegally by virtue of it having arisen in consequence (even if indirect) of the impropriety or illegality of Ms Gobbo and members of Victoria Police that led to Mr Cooper's assistance and co-operation with authorities. Submissions of that kind are made in the relevant case studies in Volume 3 concerning the following four persons:

1942.1. Mr Bickley

1942.2. Mr Kelvin

This submission has been redacted due to a range of non-publication claims. These claims are not yet resolved.

1942.3. Mr Kearney

1942.4. Relative of Mr Cooper.

CHAPTER 12 – 2006 – OPERATION KHADI

Background to Operation Khadi

1943. On Monday 16 August 2004, Brighton police uniform members, Leading Senior Constable John Brown and Constable Carol Griffith arrested Azzam (Adam) Ahmed and Terrence Wood outside [REDACTED], Brighton,²⁸⁴⁹ a house in which two associates of Mr Ahmed resided.
1944. In the car driven by Mr Ahmed, Mr John Brown found 3000 ecstasy tablets and \$15,000 in cash.²⁸⁵⁰ Mr Ahmed was interviewed and charged with various offences associated with drug trafficking and remanded in custody. Also found in Mr Ahmed's car was a water bill addressed to Ms Gobbo.²⁸⁵¹ The bill was later included in a brief of evidence compiled by Mr John Brown in the prosecution of Mr Ahmed.²⁸⁵²
1945. Ms Gobbo had been acting for Mr Ahmed since his arrest in September 2003 for drug trafficking offences laid as a consequence of Operation Galop.²⁸⁵³ Ms Gobbo had appeared for Mr Ahmed in a successful application for bail in December 2003, and following his release, developed a personal friendship with him.²⁸⁵⁴ By way of explanation for the water bill being in Mr Ahmed's car, Ms Gobbo told Mr John Brown that she had been the car on Friday 13 August prior to Ahmed's arrest on the Monday.²⁸⁵⁵ In fact, an entry in Ms Gobbo's diary on 16 August 2004 indicates that she had dined with Ahmed that night in Brighton prior to his arrest.²⁸⁵⁶
1946. A few weeks prior to the Brighton arrest, on 24 July 2004, Mr Ahmed had driven Ms Gobbo to hospital after she called him for help, having suffered a stroke. When Mr Ahmed pleaded guilty to the Brighton and Galop charges in September 2005, a letter written by Ms Gobbo was tendered on his behalf in aid of a submission to mitigate his sentence.²⁸⁵⁷
1947. Mr Ahmed made an application for bail on Mr John Brown's charges on 4 November 2004, and it seems that the informant in the Operation Galop charges, Detective Senior Constable Samantha Jennings (MDID), sought at the same time to have Mr Ahmed's bail on her charges revoked. Mr Heliotis and Ms Gobbo appeared for Mr Ahmed, and OPP solicitor, Mr Jack Vandersteen, represented both of the informants.

²⁸⁴⁹ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 1 [1], VPL.0005.0147.0001 @.0001.

²⁸⁵⁰ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 22, VPL.0005.0147.0001 @.0022; *R v Ahmed* [2007] VSCA 270, [2].

²⁸⁵¹ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 19, VPL.0005.0147.0001 @.0019.

²⁸⁵² Exhibit RC0281 ICR3838 (034), 9 June 2005, 235, VPL.2000.0003.1911.

²⁸⁵³ See Chapter 14.

²⁸⁵⁴ Exhibit RC0144 Ms Nicola Gobbo diary, 12 January 2004 – 16 August 2004, 7–38 MIN.0002.0002.0002 @.0007-.0038 Ms Gobbo's diary indicates regular lunch meetings with Mr Ahmed in the period between his release on bail and his arrest in August 2004.

²⁸⁵⁵ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 26 VPL.0005.0147.0001 @.0026.

²⁸⁵⁶ Exhibit RC0144 Ms Nicola Gobbo diary, 16 August 2004, 38 MIN.0002.0002.0002 @.0038; See also Exhibit RC0281 ICR3838 (034), 324 9 June 2006, VPL.2000.0003.1904; Transcript of Ms Nicola Gobbo, 13 June 2019, 64, 65 Ms Gobbo and RCMP1 13.06.2019.

²⁸⁵⁷ *R v Ahmed* [2007] VSCA 270, [25] and [42].

1948. Whilst outside the court, in discussion with Mr Vandersteen, Ms Gobbo accused Mr John Brown of stealing \$5,000 in cash from the car Mr Ahmed was in charge of at the time of the Brighton arrest.²⁸⁵⁸ Despite this accusation, the allegation was not put to Mr John Brown during cross-examination when he later gave evidence in the bail application, and Mr Ahmed did not pursue the allegation in any other forum.²⁸⁵⁹ When the ESD investigated this allegation, it found that there were no grounds to support it.²⁸⁶⁰
1949. During the discussion with Mr Vandersteen, Ms Gobbo made a point of mentioning that she had an entry pass for Flemington races that day to be given to a uniform officer from Brighton Police Station, Senior Sergeant Richard Shields. Ms Jennings was privy to this discussion, and given her knowledge of possible police corruption in the Operation Galop investigation the previous year, the suggestion that Mr Ahmed's barrister had a personal relationship with a police sergeant from Brighton was a concern she raised with Mr Vandersteen.²⁸⁶¹
1950. Next, in December 2004, at a committal mention hearing of Mr Ahmed's charges at the Melbourne Magistrates' Court, former Victoria Police members, Mr David Waters and Mr Steven Campbell approached Mr John Brown, and Mr Waters enquired of Mr John Brown if he was the informant in a matter Ms Gobbo was handling. Mr John Brown having said that he was, Mr Waters said words to the following effect:
- 'Mate, I think she (Nicola Gobbo) has done you a favour'; and 'trust me she has probably saved your job.'*²⁸⁶²
1951. Mr John Brown believed that these remarks concerned the allegation that he had stolen money from Mr Ahmed when he was arrested, and that Ms Gobbo, by not pursuing the allegation, had saved his job.²⁸⁶³ It will be recalled from submissions made in Chapter 4, that Ms Gobbo had been a friend of (and at times in an intimate relationship with) Mr Campbell since around 1999. In 2003, Mr Campbell had been charged along with other Victoria Police officers, [REDACTED] [REDACTED] with drug trafficking offences. All were facing trial December 2004.
1952. Further concerns of interference in the investigation arose on the evening of 17 June 2005, at a time when Mr John Brown was on sick leave. A person called Steven Boyle, a friend of Mr Peter Alexander, approached Senior Constable [REDACTED], another Brighton uniform member (and a [REDACTED] of Mr Alexander), when she was with colleagues at Kyatt's Hotel nearby the Brighton police station. Mr Boyle allegedly said to her words

²⁸⁵⁸ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 19, VPL.0005.0147.0001 @.0019.

²⁸⁵⁹ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 10 VPL.0005.0147.0001 @.0010.

²⁸⁶⁰ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 3, VPL.0005.0147.0001 @.0003.

²⁸⁶¹ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 27, 47 VPL.0005.0147.0001 @.0027, .0047.

²⁸⁶² Exhibit RC0863 Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, 1 [1.3] VPL.0005.0147.0063 @.0063.

²⁸⁶³ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 10, VPL.0005.0147.0001 @.0010.

similar to; 'I've been asked to come and tell you to tell John Brown to stay sick and not give evidence. It's Mokbel's money and he's very pissed off about it'.²⁸⁶⁴ Ms Gobbo also happened to be at Kyatt's Hotel that night. [REDACTED] [REDACTED] said that Ms Gobbo (whom she had not seen at the hotel previously) arrived a couple of hours after Mr Boyle left, and Mr Shields and she acknowledged each other when she arrived.²⁸⁶⁵ It should be noted that Mr Ahmed was considered by Mr John Brown to be associated with Mr Tony Mokbel²⁸⁶⁶ for whom Ms Gobbo was at that time acting as a barrister.

1953. [REDACTED] advised Mr Shields of this conversation. Mr Shields indicated to [REDACTED] that he would obtain the security videotapes from the hotel as evidence, and report the matter to his superiors. However, it appears that this did not occur.²⁸⁶⁷

ESD Investigation

1954. These and other matters concerning the conduct of various police members stationed at Brighton, were the subject of investigations by ESD in 2005 and 2006.²⁸⁶⁸ The OPI also became involved in this investigation in 2006, as will be seen below.
1955. Ms Gobbo's conduct and her relationships with Mr Ahmed, Mr Shields and other members and former members of police were matters of interest to both investigations and warranted thorough and close examination by the ESD and the OPI. As things eventuated, that did not occur.
1956. In mid-February 2006, Ms Gobbo became aware that Mr Shields was the subject of the ESD inquiry, which she understood might have involved her in some way.²⁸⁶⁹
1957. On about 24 March 2006, Detective Superintendent Rodney Wilson (ESD) served a notice of dismissal (authorised by then Assistant Commissioner ESD, Mr Luke Cornelius) together with supporting material on Mr Shields. Listed on that notice were numerous allegations including that Mr Shields had been in an inappropriate relationship with Ms Gobbo and had received free tickets to the races.²⁸⁷⁰
1958. Shortly after midday on 24 March 2006, Ms Gobbo reported to her handlers that Mr Shields, whom she had known for ten years, had contacted her that morning and told her that someone had made a complaint against him and

²⁸⁶⁴ Exhibit RC0863, Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, 1 [1.4], VPL.0005.0147.0063 @.0063.

²⁸⁶⁵ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 44, VPL.0005.0147.0001 @.0044.

²⁸⁶⁶ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006, 24, VPL.0005.0147.0001 @.0024.

²⁸⁶⁷ Exhibit RC0863, Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, 1 [1.4], VPL.0005.0147.0063 @.0063.

²⁸⁶⁸ Exhibit RC1731 Letter from then Detective Inspector Lindsay Attrill to then Superintendent Peter O'Neill, 10 April 2000, VPL.0005.0147.0175.

²⁸⁶⁹ Exhibit RC0281 ICR3838 (018), 155 15 February 2006, VPL.2000.0003.1735.

²⁸⁷⁰ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 2-3 [8]-[10], VPL.0014.0094.0001 @.0002-.0003; Transcript of Mr Rodney Wilson, 4 December 2019, 10414-10415, TRN.2019.12.04.01.P; Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 3 [21], VPL.0014.0057.0001 @.0003; Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11049, TRN.2019.12.12.01.P.

that he was suspended with pay because of disciplinary allegations.²⁸⁷¹ He indicated to Ms Gobbo that she might get a call from the ESD.²⁸⁷² Ms Gobbo reported to her handlers that she was of the belief that the allegations stemmed from Mr Shields having problems with a member at Brighton who had arrested Mr Ahmed (being Mr John Brown). Ms Gobbo said she did not like the member as he had put her home address in the hand up brief. Ms Gobbo said that Mr John Brown had stolen money from Mr Ahmed, but he had never reported it, despite Ms Gobbo urging him to do so.²⁸⁷³

1959. It was apparent to Ms Gobbo's handler, Mr Peter Smith, that if the information provided by Ms Gobbo was reported to ESD, she would certainly be compromised.²⁸⁷⁴ For the same reason, no Information Report was submitted by her handlers.²⁸⁷⁵
1960. In a letter dated 10 April 2006 to Superintendent Peter O'Neill of the Conduct and Professional Standards Division of ESD, Detective Inspector Lindsay Attrill, an ESD investigator, recommended that numerous allegations of misconduct by Brighton police officers and others, including the abovementioned matters be referred to Superintendent Wilson and brought to the attention of the OPI.²⁸⁷⁶ It appears that as a consequence of this recommendation, in May 2006 ESD approached the OPI.²⁸⁷⁷
1961. On 24 May 2006, Mr Wilson and Mr Attrill met with OPI investigators to discuss obtaining assistance from the OPI including the use of its coercive powers to interview a number of people, including Ms Gobbo.²⁸⁷⁸

5 June 2006 - Operation Khadi Joint Agency Agreement

1962. On 5 June 2006, Mr Cornelius, and Mr Graham Ashton, then Assistant Director of the OPI, signed a joint agency agreement to commence an investigation which was described as Operation Khadi.²⁸⁷⁹ Operation Khadi was described as an investigation into an attempt to pervert the course of justice. The primary suspects were named as:

- former Detective Sergeant David Waters;
- former Detective Senior Constable Steven Campbell; and
- Mr Steven Boyle.²⁸⁸⁰

²⁸⁷¹ Exhibit RC0281 ICR3838 (024), 207 24 March 2006 VPL.2000.0003.1793.

²⁸⁷² Exhibit RC0281 ICR3838 (024), 207 24 March 2006 VPL.2000.0003.1793.

²⁸⁷³ Exhibit RC0281 ICR3838 (024), 207 24 March 2006 VPL.2000.0003.1793.

²⁸⁷⁴ Exhibit RC0281 ICR3838 (024), 208 24 March 2006 VPL.2000.0003.1794.

²⁸⁷⁵ Exhibit RC0281 ICR3838 (024), 208 24 March 2006 VPL.2000.0003.1794.

²⁸⁷⁶ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 2-3 [8]–[10], VPL.0014.0094.0001 @.0002-.0003; Exhibit RC1736 Letter then Detective Inspector Lindsay Attrill to then Superintendent Peter O'Neill, 10 April 2006, VPL.0005.0147.0175.

²⁸⁷⁷ Exhibit RC0877 Operation Khadi Final Report, Office of Police Integrity, 27 March 2007, IBAC.0008.0001.0126.

²⁸⁷⁸ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 2-3 [8]–[10], VPL.0014.0094.0001 @.0002-.0003; Exhibit RC0828 Mr Rodney Wilson diary, 24 May 2006, 48 RCMP1.0118.0001.0001 @.0048.

²⁸⁷⁹ Exhibit RC0863, Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, VPL.0005.0147.0063; Exhibit RC828 Mr Rodney Wilson diary, 5 June 2006, 50, RCMP1.0118.0001.0001 @.0050.

²⁸⁸⁰ Exhibit RC0863 Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, 1 [3.1], VPL.0005.0147.0063 @.0063.

1963. Senior Sergeant Richard Shields was described as an 'associate suspect'.²⁸⁸¹
1964. The agreement included an Operations Management Group that comprised of two members; a member from each agency. The Operations Management Group consisted of Detective Superintendent Rod Wilson from the ESD and Mr John Kapetanovski from the OPI.²⁸⁸² They reported to the senior management of the participating agencies, being Messrs Cornelius and Ashton respectively. Mr Attrill was to be the ESD investigator actively involved in the investigation.²⁸⁸³ Under the heading 'Role of Agencies', both were described as responsible for the conduct of investigations. The OPI's roles included the arrangement and conduct of coercive hearings.²⁸⁸⁴

Plan to Summons Ms Gobbo before the OPI

1965. As will become apparent, Operation Khadi investigators devised a plan that involved summoning Ms Gobbo before the OPI to give evidence and meanwhile [REDACTED] to further their investigation.
1966. To give effect to the plan, on 5 June 2006 Superintendent Phillip Masters, who was responsible for ESD surveillance, contacted Inspector Trevor Wilson at the Special Project Unit (SPU) with a view [REDACTED]. Inspector Wilson contacted his Superintendent, Mr Tony Biggin, about this request. As set out in previous chapters, Mr Biggin was well aware by this time that Ms Gobbo was a human source, and he informed Mr Wilson to convey to Mr Masters that before anything was done, he should communicate with Mr Overland or the Commander of the Intelligence and Covert Support unit, Mr Danye Moloney.²⁸⁸⁵

6 June 2006 – Briefing about Ms Gobbo's Role as a Human Source

1967. On 6 June 2006, shortly before 7:00am, Mr Masters spoke to Detective Superintendent Grant who had oversight responsibility for the Purana Taskforce and reported to Mr Overland.²⁸⁸⁶ Mr Grant's note of the conversation is as follows:²⁸⁸⁷

0655 Spoke to D/Supt Masters

- *enquiry re work. intelligence holdings (ie. TI) on Nicola Gobbo*

²⁸⁸¹ Exhibit RC0863 Joint agency agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, 1 [3.2], VPL.0005.0147.0063 @.0063.

²⁸⁸² Exhibit RC0863 Joint Agency Agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, VPL.0005.0147.0063.

²⁸⁸³ Exhibit RC1220 Statement of Mr Lindsay Attrill, 14 August 2019, 1-2, VPL.0014.0049.0001 @0001-.0002.

²⁸⁸⁴ Exhibit RC0863 Joint Agency Agreement between OPI and Victoria Police: Operation Khadi, 5 June 2006, VPL.0005.0147.0063 @.0064.

²⁸⁸⁵ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 5 June 2006, 287, RCMPI.0075.0001.0001 @0287; See also Exhibit RC0578 Mr Anthony (Tony) Biggin diary chronology, 5 June 2006, 9 VPL.0005.0154.0001 @0009.

²⁸⁸⁶ Exhibit RC0284 SML3838, 6 June 2006, 35, VPL.0005.0099.0001 @.0035 - it was considered that Purana might already have had intelligence (telephone intercept product) on Ms Gobbo.

²⁸⁸⁷ Exhibit RC1562 Mr Richard Grant diary, 6 June 2006, 29, VPL.0005.0236.0053 @.0081.

- *concern over relationship with Richard Shields*
- *OPI interest in the matter.*
- *suggested he brief Assistant Commissioner Cornelius, to discuss ESD investigation with Commander Maloney and A/C Overland*

1968. It appears that Mr Masters acted in accordance with Mr Grant's suggestion and briefed Mr Cornelius with a view to the latter discussing the ESD investigation with Mr Overland. Mr Master's diary entry at 7:30am is as follows:²⁸⁸⁸

Problems with Operation Khadi – required to speak to Simon Overland re this matter - he has requested that Rod Wilson and I meet with him at 9:30 for briefing.

1969. Given the reference to 'problems' with the operation, it is submitted that it is likely that Messrs Masters and Cornelius were aware at that stage that the plan to include Ms Gobbo in the investigation may encounter difficulties, and that it would be necessary to brief Mr Overland about the Khadi plan, insofar as it concerned Ms Gobbo. It is clear that Mr Cornelius wanted Mr Masters and Mr Wilson to be present and to assist in his briefing to Mr Overland. Accordingly, Mr Overland was asked to attend the meeting.

1970. Later that morning, Mr Wilson and Mr Masters met with Mr Cornelius, as per the request set out in the above diary entry, and Mr Overland joined the meeting to discuss the details of Operation Khadi.²⁸⁸⁹ The evidence before the Commission indicates that the question of calling Ms Gobbo before a coercive hearing was discussed at the meeting.²⁸⁹⁰ Further, it is apparent that at the meeting, Mr Overland disclosed that Ms Gobbo was a human source. However, the Commission has received differing accounts as to who was given that information. Mr Cornelius has maintained that he believes that he did not become aware until some years later that Ms Gobbo was an informer.

1971. It is submitted that the following contemporaneous records provide a relatively clear picture of the events of the meeting:

- Mr Wilson's diary entry of 6 June 2006
- Mr Masters' diary entry of 6 June 2006

²⁸⁸⁸ Exhibit RC1561 Mr Philip Masters diary, 6 June 2006, 1, VPL.0005.0206.0003.

²⁸⁸⁹ Exhibit RC0934 Assistant Commissioner Luke Cornelius diary, 6 June 2006, 7 VPL.0005.0173.0001 @.0007; Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 3-4 [23] VPL.0014.0057.0001 @.0003-.0004; Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11054 [28]–[35], TRN.2019.12.12.01.P; Exhibit RC1215 Statement of Mr Philip Masters, 12 November 2019, 3 [17] VPL.0014.0085.0001 @.0003; Exhibit RC1561 Mr Philip Masters diary, 6 June 2006, VPL.0005.0206.0003; Exhibit RC0828 Mr Rodney Wilson diary, 6 June 2006, 48, RCMPI.0118.0001.0001 @.0050; Transcript of Mr Rodney Wilson, 4 December 2019, 10420 [11]–[35] TRN.2019.12.04.01.1.P; Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, [12] VPL.0014.0094.0001 @.0002; Transcript of Mr Simon Overland, 17 December 2019, 11541-42, TRN.2019.12.17.01.P.

²⁸⁹⁰ Exhibit RC0934 Assistant Commissioner Luke Cornelius diary, 6 June 2006, 7, VPL.0005.0173.0001 @.0007; Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 3 [23], VPL.0014.0057.0001 @.0003; Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11054, TRN.2019.12.12.01.P.

- the Source Management record of Mr Sandy White (see below)
- Mr Sandy White's diary entry of 6 June 2006.

1972. Mr Wilson's diary entry of 6 June 2006 indicates that at this meeting involving himself, Mr Cornelius, Mr Overland and Mr Masters, Mr Overland was briefed about Operation Khadi and an intended coercive hearing involving Nicola Gobbo. He then notes that Mr Overland provided a briefing about Ms Gobbo being a human source.²⁸⁹¹

6/6/06	Tuesday	
0750	On duty supt. ESD	
0930	Meeting with A/C, Simon Overland, Phil MASTERS re Op: Khadi. Coercive hearing discussed involving Nicola Gobbo. Briefed by Simon re Gobbo and involvement as a human source. Need to S/T Sandy White to coordinate issues.	

1973. As noted above, Mr Masters' diary entry at 7:30am indicates that Mr Cornelius wanted he and Mr Wilson to join him at a briefing with Mr Overland at 9:30am concerning Khadi, and the 9:30am note confirms that this briefing occurred. Mr Masters' noted that Mr Overland briefed the meeting about Operation Khadi and he recorded that Mr Wilson was to speak to Mr Sandy White about human source issues.²⁸⁹²

1974. On that same day, Mr Sandy White made the following entry in the Source Management Log:

*Advised by Super Wilson, ESD that he is aware of source ID. Informed by A/C Overland after being referred to same by Super Biggin when inquiry made re putting [REDACTED]. ESD working with OPI re investigation of Richard Shiels (sic) and John Brown, Brighton police. Had intended to subpoena HS (Ms Gobbo) to OPI hearings to compel to answer questions then see what occurs on the [REDACTED]. Advised by Overland to contact SDU re same. Advised Wilson will consider appropriate course of action and meet with same. Informed by Wilson that Cornelius and Masters also aware of source identity now.*²⁸⁹³

1975. Mr Sandy White recorded in his diary that Mr Wilson informed him later in the day that he had been briefed by Mr Overland regarding the status of Ms Gobbo in the presence of Mr Cornelius and Mr Masters.²⁸⁹⁴

²⁸⁹¹ Exhibit RC0828 Mr Rodney Wilson diary, 5 June 2006, 50, RCMP1.0118.0001.0001 @.0050.

²⁸⁹² Exhibit RC1561 Mr Philip Masters diary, 6 June 2006, 1, VPL.0005.0206.0003.

²⁸⁹³ Exhibit RC0284 SML3838, 6 June 2006, 35, VPL.0005.0099.0001 @.0035.

²⁸⁹⁴ Exhibit RC0401 Mr Sandy White diary, 6 June 2006, 261, VPL.0100.0096.0157 @.0261.

Evidence of Mr Wilson

1976. Mr Wilson's evidence before the Commission, was that he recalled the meeting with Mr Overland, Mr Cornelius and Mr Masters.²⁸⁹⁵ He also recalled that a coercive hearing involving Nicola Gobbo was discussed.²⁸⁹⁶ Initially Mr Wilson said that his recollection was that when Mr Overland told him that Ms Gobbo was a human source, only he was present.²⁸⁹⁷
1977. Mr Wilson accepted that whilst he had no memory of Mr Masters or Mr Cornelius leaving the room, and despite the fact his diary does not record it, it was his recollection that he was briefed on Ms Gobbo's status one on one.²⁸⁹⁸ Nonetheless, he accepted his memory of the event could be wrong.²⁸⁹⁹
1978. When it was put to Mr Wilson that the SML entry was consistent with his diary that Mr Masters and Mr Cornelius were present, he agreed, noting 'it does, on the basis of that information'.²⁹⁰⁰
1979. When Mr Sandy White's diary entry of 6 June 2006 was also put to Mr Wilson, he noted that he could not recall its contents, but had no reason to dispute the entry.²⁹⁰¹

Evidence of Mr Cornelius

1980. In his evidence before the Commission, Mr Cornelius was 'happy to agree that the meeting took place' between Mr Overland, Mr Masters, Mr Wilson and himself.²⁹⁰² He also noted that whilst he did not recall the details of that meeting, a conversation 'may well have included a discussion about a proposed coercive hearing involving Gobbo'.²⁹⁰³
1981. However, in response to the suggestion that he and Mr Wilson were told Ms Gobbo was a human source, Mr Cornelius stated 'I have no recollection of that',²⁹⁰⁴ and 'I don't accept that'.²⁹⁰⁵ Mr Cornelius said, 'I am very clear that I don't recall, and I think it highly unlikely, that I was party to a conversation about Gobbo's involvement as a human source and needing to speak to a key person from the Source Development Unit'.²⁹⁰⁶ Mr Cornelius confirmed that he was clear because he would have found it extraordinary had that

²⁸⁹⁵ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 2 [12], VPL.0014.0094.0001 @.0002; Transcript of Mr Rodney Wilson, 4 December 2019, 10419, TRN.2019.12.04.01.1.P.

²⁸⁹⁶ Transcript of Mr Rodney Wilson, 4 December 2019, 10419, TRN.2019.12.04.01.1.P.

²⁸⁹⁷ Transcript of Mr Rodney Wilson, 4 December 2019, 10420, TRN.2019.12.04.01.1.P.

²⁸⁹⁸ Transcript of Mr Rodney Wilson, 4 December 2019, 10422, TRN.2019.12.04.01.1.P.

²⁸⁹⁹ Transcript of Mr Rodney Wilson, 4 December 2019, 10422, TRN.2019.12.04.01.1.P.

²⁹⁰⁰ Transcript of Mr Rodney Wilson, 4 December 2019, 10423, TRN.2019.12.04.01.1.P.

²⁹⁰¹ Transcript of Mr Rodney Wilson, 4 December 2019, 10423-10424, TRN.2019.12.04.01.1.P.

²⁹⁰² Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11054, TRN.2019.12.12.01.P.; Exhibit RC0934 Luke Cornelius diary, 6 June 2006, 7, VPL.0005.0173.0001 @.0007.

²⁹⁰³ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11054-11055, TRN.2019.12.12.01.P.

²⁹⁰⁴ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055, TRN.2019.12.12.01.P.

²⁹⁰⁵ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055, TRN.2019.12.12.01.P.

²⁹⁰⁶ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055, TRN.2019.12.12.01.P.

been the case and that he would have known the implications at that time.²⁹⁰⁷

1982. In his statement to the Commission, Mr Cornelius states that he did not become aware of Ms Gobbo's registration as a human source prior to July 2009 when he raised 'red flags' concerning her use.²⁹⁰⁸
1983. Asked about Mr Sandy White's entries in his diary and in the SML, Mr Cornelius noted that, like his review of Mr Wilson's diary entry he was of the belief that 'it's a conflation of two separate conversations, of a conversation with myself and the others in relation to an OPI examination of Ms Gobbo, and then a further conversation that Rod Wilson may have had with Simon Overland in relation to Ms Gobbo's status as a human source'.²⁹⁰⁹ He said it may be a case of 'Chinese whispers'.²⁹¹⁰

Evidence of Mr Overland

1984. When Mr Wilson's diary entry was put to Mr Overland, he said, 'the only qualification is did I brief the meeting, or did I brief Mr Wilson? I am just not clear'.²⁹¹¹ Mr Overland did not have any recollection of the meeting.²⁹¹² He said that a possible reason for only briefing Mr Wilson may have been to keep the identity of the source as confidential as possible but that he did not recall.²⁹¹³
1985. Having seen the SML of 6 June 2006, Mr Overland accepted that he must have briefed the meeting.²⁹¹⁴ He also conceded that it was unlikely that he would have been prepared to inform Mr Wilson but not Mr Cornelius, the ESD Assistant Commissioner.²⁹¹⁵ Mr Overland said that he would generally see no reason not to brief the Assistant Commissioner (Mr Cornelius), particularly given he was a signatory to and involved in the joint agency agreement.²⁹¹⁶

Evidence of Mr Masters

1986. Mr Masters did not give evidence in Commission hearings, although in a statement produced to the Commission he indicated that whilst did not have an 'independent recollection' of the meeting of 6 June 2006,²⁹¹⁷ his notes record that he met with Mr Overland, Mr Cornelius and Mr Wilson. In his statement, Mr Masters said that at the meeting Operation Khadi and the issue of 'state surveillance' was raised and Mr Wilson was requested to

²⁹⁰⁷ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055, TRN.2019.12.12.01.P.

²⁹⁰⁸ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 21 [121]

²⁹⁰⁹ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11058, TRN.2019.12.12.01.P.

²⁹¹⁰ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11059, TRN.2019.12.12.01.P.

²⁹¹¹ Transcript of Mr Simon Overland, 17 December 2019, 11543, TRN.2019.12.17.01.P.

²⁹¹² Transcript of Mr Simon Overland, 17 December 2019, 11543, TRN.2019.12.17.01.P.

²⁹¹³ Transcript of Mr Simon Overland, 17 December 2019, 11544, TRN.2019.12.17.01.P.

²⁹¹⁴ Transcript of Mr Simon Overland, 17 December 2019, 11545, TRN.2019.12.17.01.P.

²⁹¹⁵ Transcript of Mr Simon Overland, 17 December 2019, 11545, TRN.2019.12.17.01.P.

²⁹¹⁶ Transcript of Mr Simon Overland, 17 December 2019, 11545, TRN.2019.12.17.01.P.

²⁹¹⁷ Exhibit RC1215 Statement of Mr Philip Masters, 12 November 2019, 3 [16] VPL.0014.0085.0001 @.0003; Exhibit RC1561 Mr Philip Masters diary, 6 June 2006, 1, VPL.0005.0206.0003 @.0003.

speak to Mr Sandy White about 'human source issues'.²⁹¹⁸ Mr Masters said that he assumed that this was a reference to Ms Gobbo.²⁹¹⁹

Conclusion regarding 6 June 2006 Meeting

1987. It may be that Mr Wilson, having examined the note years after the events, considered he received a private briefing from Mr Overland. However, the note should be read in its context. In context, the note reveals that Mr Overland was briefed about the intentions of ESD with respect to Khadi; the intention of ESD was that Ms Gobbo would be the subject of a coercive hearing. In response, Mr Overland briefed that she was a human source. It was a briefing to the meeting, and not to Mr Wilson. The action required was that Mr Wilson would liaise with Mr Sandy White. In combination with Mr Masters' note, which suggests that he too was advised about the human source issues, and the decision that Mr Wilson would liaise with Mr Sandy White, Mr Wilson's note becomes clear. Neither note suggest a private discussion or that Mr Cornelius left the room for a part of the meeting. If that had occurred, it would have been noteworthy.
1988. When those notes are combined with the evidence of the SML and Mr Sandy White's diary, any uncertainty about Mr Wilson's note falls away.
1989. Mr Wilson was the designated ESD representative of the Khadi joint agency investigation 'Operations Management Group'. Mr Cornelius was his line superior and the signatory to the joint agency agreement with the OPI, which had been signed the day prior to the meeting. The meeting appears to have come about due to concerns about the position of Ms Gobbo. As suggested by Mr Overland, it is submitted that it is unlikely in the circumstances that Mr Cornelius would be asked to leave a meeting so that the information about Ms Gobbo's status as a human source would go only to Mr Wilson. Further, it is submitted that it is most unlikely that Mr Wilson would 'conflate' two separate conversations and incorrectly convey to Mr Sandy White, and that Mr Sandy White would incorrectly record, that which both of them recorded in their respective diaries and which Sandy White entered into the SML. If such a deliberate step was taken, on 6 June 2006, such that only Wilson should be apprised of Gobbo's status, it would be expected that it would have been recorded in Mr Wilson's contemporaneous record. And further, he would not have told Mr Sandy White, on the very day of the meeting exactly the opposite of what had just occurred.

1990. **On the above evidence, it is open to the Commissioner to find that all present at the meeting on 6 June 2006, including Mr Cornelius and Mr Masters, were told by Mr Overland that Ms Gobbo was a registered human source. That is so because:**
- a. **on its own, Mr Wilson's note is not determinative, and could account for his initial evidence, years after the event, that he was briefed privately by Mr Overland**

²⁹¹⁸ Exhibit RC1215 Statement of Mr Philip Masters, 12 November 2019, 3 [17] VPL.0014.0085.0001 @.0003; Exhibit RC1561 Mr Philip Masters diary, 6 June 2006, VPL.0005.0206.0003.

²⁹¹⁹ Exhibit RC1215 Statement Mr Philip Masters, 12 November 2019, 3 [17] VPL.0014.0085.0001 @.0003.

- b. however, Mr Wilsons’s note when read in conjunction with Mr Masters’ note, supports a conclusion that Mr Masters too was advised about the human source issues, and the decision that Mr Wilson would liaise with Mr Sandy White**
- c. neither note suggests a private discussion or that Mr Cornelius left the room for a part of the meeting. If that had occurred, it would have been noteworthy**
- d. further, the contents of the SML and Mr Sandy White’s diary support a conclusion that Mr Sandy White was told that Mr Cornelius and Mr Masters were present and were informed.**

Background concerning the OPI Oversight/Investigation into the Murders of Terrence and Christine Hodson

1991. The then Deputy Director of Police Integrity, Mr Ashton, was considering calling Ms Gobbo to be coercively examined by the OPI even before the Khadi issue arose. By way of background, in mid-2004, shortly after the murders of Terrence Hodson and his wife Christine, Mr George Brouwer, then Police Ombudsman engaged Mr Tony Fitzgerald QC, a former President of the Queensland Court of Appeal, to conduct an investigation into the leaking of an informer file, identifying Mr Hodson as a police informer. Mr Fitzgerald’s investigation did not commence until the legislation that created the Office of Police Integrity came into force in November 2004. When it did, one of Mr Brouwer’s first acts as Director of Police Integrity, on 16 November 2004, was to initiate an ‘own motion’ investigation into the leaked informer file, and more generally into the policies and procedures surrounding the security of informer files.²⁹²⁰
1992. Shortly thereafter, Mr Fitzgerald commenced interviewing witnesses, including Mr Paul Dale and Mr David Miechel, and on 18 February 2005, his findings were tabled in Parliament. Mr Fitzgerald considered (although on the basis of available evidence could not find) that the informer file may have been stolen by a police officer, and if it had been, Mr Dale was an obvious suspect, although again he could not make that finding on the evidence available to him.²⁹²¹ By that stage Mr Ashton had been appointed and commenced his duties as the Deputy Director of the OPI, and under his management, the OPI continued to oversight the Homicide Squad investigation into the Hodson murders.
1993. In his oversight role, early in 2005, Mr Ashton arranged with Mr Overland to be briefed by members of the Homicide Squad as to the progress of the murder investigation.²⁹²²

²⁹²⁰ Exhibit RC1594 Office of Police Integrity, ‘Determination to Conduct an Investigation’, 16 November 2004, IBAC.0007.0001.0016.

²⁹²¹ Office of Police Integrity Victoria, *Report on the Leak of a Sensitive Victoria Police Information Report* 18 February 2005, 8. [publicly available]

²⁹²² Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, [48]–[51] GLA.0006.0001.0001 @.0006; Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10651, TRN.2019.12.09.01.P.

1994. In February 2005, Mr Ashton interviewed Mr Murray Gregor, the ESD officer who investigated the allegations of police involvement in the Dublin Street burglary. A significant focus of Mr Ashton's interview of Mr Gregor was the conduct of Ms Gobbo and any connection there may have been between her and Messrs Dale and Hodson.²⁹²³ Mr Ashton elicited from Mr Gregor a good deal of information about the activities of Ms Gobbo including the following:²⁹²⁴
- that she acted for most of the people charged as a consequence of Operation Galop
 - that she was also advising Terrence Hodson (including advising him to 'roll' on Mr Dale)
 - that she was in a relationship with Mr Dale
 - that she was fishing around for information
 - that she was passing information to Mr Dale
 - that she was prepared to provide information contrary to the interests of Mr Dale
 - that Mr Dale had called her for legal advice when he was arrested and they had a lengthy conversation whilst he was in custody.
1995. Subsequent to this interview, Mr Ashton sought to obtain information that may have connected Ms Gobbo to Mr Dale.²⁹²⁵
1996. By early 2006, the OPI had obtained sufficient information concerning Ms Gobbo to create a 'profile', which included an allegation that she was having an 'affair' with Mr Dale around the time that the Hodson informer file apparently went missing. In that profile, it was alleged that Mr Dale passed the Hodson informer file, via an intermediary, to Ms Gobbo.²⁹²⁶
1997. In January 2006, Mr Ashton tasked an OPI investigator to prepare an OPI hearing brief with a view to examining Ms Gobbo about her knowledge of the Hodson murders.²⁹²⁷
1998. On 29 May 2006, it was determined by Mr Ashton to call Mr Dale and Ms Gobbo on about 25 July 2006 to a hearing.²⁹²⁸ The hearings were delayed

²⁹²³ Exhibit RC1782 Chronology of Events: 2003 Leak of Victoria Police/MDID IRs, May 2006, 8, IBAC.0010.0001.0887 @.0008; Exhibit RC0857 Transcript of interview between Graham Ashton, Philip Caine and Murray Gregor, 16 February 2005 IBAC.0010.0001.1078.

²⁹²⁴ Exhibit RC1782 Chronology of Events: 2003 Leak of Victoria Police/MDID IRs, May 2006, 8, IBAC.0010.0001.0887 @.0008; Exhibit RC0857 Transcript of interview between Graham Ashton, Philip Caine and Murray Gregor, 16 February 2005 IBAC.0010.0001.1078 @.0008-.0018.

²⁹²⁵ Exhibit RC0862 Email from Graham Ashton to Peter Teather, 8 March 2005, IBAC.0010.0001.0916. See, eg, a request for Ms Gobbo call charge records.

²⁹²⁶ Exhibit RC1823 Office of Police Integrity, Profile of Ms Nicola Gobbo, 6 February 2006, IBAC.0007.0001.0005

²⁹²⁷ Exhibit RC0858 Investigation Running Sheet: 2003 Leak of Victoria Police/MDID Information Reports, undated, 1 IBAC.0008.0001.0132 @.0001.

²⁹²⁸ Exhibit RC0861 Chief Commissioner Graham Ashton diary, 29 May 2006, 4 IBAC.0015.0001.0003 @.0004; Exhibit RC0858 Investigation Running Sheet: 2003 Leak of Victoria Police/MDID IRs, undated, 12 IBAC.0008.0001.0132 @.0012; Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10673-10674, TRN.2019.12.09.01.P.

until August 2006, and then due to the unavailability of Mr Fitzgerald further delayed.²⁹²⁹ Ultimately, Ms Gobbo was called in to be examined in July 2007.

1999. In the meantime, in late May 2006, the Operation Khadi inquiry came to the attention of the OPI.

SDU Concerns about Risk of Gobbo's Exposure from OPI Hearing

2000. It is apparent that the suggestion that Ms Gobbo might be called to the OPI to give evidence under compulsion was clearly a cause of concern to her handlers. Questioning by the OPI would likely lead to her exposure as a human source, at least to those involved in the hearing, and axiomatically, every enlargement of the group of people who had that information increased the risk of exposure to the broader legal and criminal community.

2001. There is no suggestion that prior to June 2006, the SDU officers were aware of Mr Ashton's plans to call Ms Gobbo to the OPI to examine her about matters concerning the Hodson murders. The first concern about an OPI hearing, arose because of the Khadi plan.

2002. In his conversation with Mr Wilson on 6 June 2006, Mr Sandy White said that he expected that Ms Gobbo would not answer questions unless forced by the examiner. He noted in his diary, 'the OPI do not know about HS and will not be told'. Mr Sandy White told Mr Wilson that the list of people who knew about Ms Gobbo was growing weekly which was very concerning. A short while later, Mr Sandy White spoke to Mr Jim O'Brien of Purana who said that he was aware of the ESD interest in Ms Gobbo from Mr Overland. There was also discussion of information that Ms Gobbo had provided to the SDU to the effect that \$700,000 said to have been in the possession of Mr Ahmed at the time of his arrest in relation to Operation Galop had not been found.²⁹³⁰

2003. On 9 June 2006, Mr Sandy White met with Mr Biggin to discuss the possible compromise of Ms Gobbo if the OPI examined her.²⁹³¹

2004. Later on 9 June 2006, Messrs Sandy White and Green met with Ms Gobbo. During the meeting, Ms Gobbo told the SDU officers that she had met Mr Ahmed for dinner in Brighton prior to his arrest on 16 August 2004. He had with him \$20,000 which she claimed was on account of legal fees owed in connection with work performed for his father. She told handlers that Mr Ahmed asked her to take the cash, but she refused, suggesting that it should be left with her clerk the following day. She said that the \$20,000 was stolen by John Brown when Ahmed was arrested some hours later.²⁹³²

²⁹²⁹ Exhibit RC0858 Investigation Running Sheet: 2003 Leak of Victoria Police/MDID Information Reports, undated, 15 IBAC.0008.0001.0132 @.0015.

²⁹³⁰ Exhibit RC0401 Mr Sandy White diary, 6 June 2006, 145 VPL.2000.0001.0677 @.0821.

²⁹³¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary summary, 9 June 2006, 10, VPL.0005.0154.0001 @.0010.

²⁹³² Exhibit RC0281 ICR3838 (034), 324-5, 9 June 2006 VPL.2000.0003.1910-1911.

15 June – Meeting between ESD and OPI Investigators

2005. On 15 June 2006 a meeting was held between Mr Sandy White, Mr Wilson and Mr Attrill to discuss the intelligence received from Ms Gobbo.²⁹³³ Mr Sandy White's diary entry for this day expresses concern about Mr Attrill being informed of the identification of Ms Gobbo.²⁹³⁴ In Mr Attrill's statement to the Commission, he does not recall this meeting and although he recalls being informed about Ms Gobbo assisting Victoria Police as a human source, he did not recall when this occurred or who informed him.²⁹³⁵ There was clearly a discussion about whether the OPI should be made aware that Ms Gobbo was a human source, as Mr Sandy White's diary records that everyone at the meeting was opposed to Mr Ashton and the OPI being told.²⁹³⁶ Mr Sandy White gave the advice at the meeting that the risk to the source was too high if she was to be called before the OPI. It was agreed that Ms Gobbo would be spoken to as witness and assist with information concerning Mr Ahmed in relation to Operation Galop (Dublin Street burglary).²⁹³⁷
2006. In a discussion with her handler, Mr Green, on 15 June 2006, Ms Gobbo was told that she may be required to speak to the OPI and was upset at the prospect. She said that she would refuse to answer questions and would rather go to gaol.²⁹³⁸ The following day Ms Gobbo told Mr Sandy White that she trusted Mr Swindells, who by this stage was a Detective Inspector attached to the ESD.²⁹³⁹
2007. Accordingly Mr Sandy White and Mr Wilson determined that Mr Swindells would question Ms Gobbo about the matters of interest to ESD, but he would not be told that she was a human source.²⁹⁴⁰ It is likely that this plan was not made in consultation with the OPI arm of Operation Khadi.
2008. Following the meeting, Mr Attrill submitted an IR in which he detailed the information conveyed by Ms Gobbo to Mr Sandy White and in turn to him. Ms Gobbo was not named in the IR but described as 'someone known to Attrill'. The IR contained information that Ms Gobbo had obtained from Mr Ahmed, her client, and it would have been clear to Mr Attrill, that Ms Gobbo was prepared to share confidential and perhaps privileged information to Mr Sandy White. The IR records that Mr Attrill had been told, amongst other things, that Ms Gobbo had told police handlers that Mr Ahmed was in possession of \$20,000 shortly prior to his arrest; that Mr Ahmed and Mr Wood then attended [REDACTED] and a drug transaction was alleged to have occurred with Mr Ahmed believed to have delivered a package to the address. Mr Ahmed and Mr Wood left the address and whilst standing at

²⁹³³ Exhibit RC0284 SML3838, 6 June 2006, 35, VPL.0005.0099.0001 @.0037.

²⁹³⁴ Exhibit RC0305 Mr Sandy White diary, 15 June 2006, 118, VPL.0100.0096.0157 @.0275; Transcript of Mr Rodney Wilson, 4 December 2019, 10428, TRN.2019.12.04.01.1.P.

²⁹³⁵ Exhibit RC1220A Statement of Mr Lindsay Attrill, 14 August 2019, [13]-[14], VPL.0014.0049.0001 @.0002.

²⁹³⁶ Transcript of Mr Rodney Wilson, 4 December 2019, 10428, TRN.2019.12.04.01.1.P; Exhibit RC0305 Mr Sandy White diary, 15 June 2006, 118, VPL.0100.0096.0157 @.0275; Transcript of Mr Sandy White, 2 September 2019, 5297, TRN.2019.09.02.01.C.

²⁹³⁷ Transcript of Mr Sandy White, 2 September 2019, 5298, TRN.2019.09.02.01.C.

²⁹³⁸ Exhibit RC0281 ICR3838 (035), 330 15 June 2006, VPL.2000.0003.1916.

²⁹³⁹ Exhibit RC0281 ICR3838 (035), 332 16 June 2006, VPL.2000.0003.1918.

²⁹⁴⁰ Transcript of Mr Rodney Wilson, 4 December 2019, 10433, TRN.2019.12.04.01.1.P.

the front of the premises were arrested. Mr Ahmed alleged that Mr John Brown stole the \$20,000 that was still in his jacket.²⁹⁴¹

2009. It is submitted that it must have been apparent to the ESD investigators that there was a possibility that Ms Gobbo could provide information that might otherwise be privileged because the following day, 16 June, Mr Wilson spoke to both Mr Sandy White and Mr John Kapetanovski (OPI) about whether Ms Gobbo could be compelled to provide confidential information, acquired in her capacity as a lawyer, at an OPI hearing.²⁹⁴² Of significance, it would have also been apparent to Mr Wilson, that Ms Gobbo was actually conveying confidential information to her Victoria Police handlers.
2010. On 11 July Ms Gobbo told her handlers that she was wary of speaking to ESD, but she was told that it was better than being the subject of a coercive examination, and that Mr Swindells was not aware she was a source.²⁹⁴³
2011. On 20 July, Mr Swindells spoke to Ms Gobbo in her office, apparently for a preliminary discussion about the Khadi inquiry concerning the John Brown allegations.²⁹⁴⁴

21 July 2006 - ESD Investigators Meet with OPI Investigators

2012. On 21 July 2006, members of the ESD, Mr Wilson and Mr Attrill met with OPI investigators Mr Kapetanovski, Mr Michael Davson and Mr Steven Parker. The proposal that the ESD would meet with Ms Gobbo informally was described by Mr Attrill as causing frustration and disagreement on the part of OPI investigators who were intent upon coercively examining Ms Gobbo. The OPI investigators considered that an earlier approach by ESD would jeopardise their hearing by removing the element of surprise. Apparently by way of compromise, the ESD investigators agreed to furnish their OPI colleagues with a prepared list of questions for their input and agreement. That occurred and it was agreed that the ESD would not ask questions of Ms Gobbo that would put her on notice that the OPI was interested in Mr Waters' and Mr Campbell's relationship with Mr John Brown and Ms Gobbo.²⁹⁴⁵

24 July 2006 - Meeting between ESD and Gobbo and at the Same Time an SDU Meeting – Prescient Concern about a Royal Commission

2013. On the morning of 24 July 2006, Ms Gobbo met with Mr Swindells and Mr Attrill.²⁹⁴⁶ It seems that Mr Attrill put questions to Ms Gobbo about the theft of the \$20,000 from Mr Ahmed, which made it plain to her that he had been speaking to Mr Sandy White. She said she had told no one else about the \$20,000 (it will be recalled that when Ms Gobbo appeared in Mr Ahmed's bail application on 4 November 2004, Ms Gobbo alleged to Mr Vandersteen (OPP) and Ms Jennings (Informant) that Mr John Brown had stolen \$5000

²⁹⁴¹ Exhibit RC0283 Information Report, 15 June 2006, VPL.0005.0147.0151.

²⁹⁴² Exhibit RC0828 Mr Rodney Wilson diary, 16 June 2006, 33, VPL.0005.0213.0023 @.0055.

²⁹⁴³ Exhibit RC0281 ICR3838 (037), 354, 11 July 2006, VPL.2000.0003.1940.

²⁹⁴⁴ Exhibit RC0281 ICR3838 (038), 364, 20 July 2006, VPL.2000.0003.1950.

²⁹⁴⁵ Exhibit RC0283 Information Report, 26 July 2006, 1, VPL.0005.0147.0119.

²⁹⁴⁶ Exhibit RC1380 Mr Phillip Swindells diary, 24 July 2006, 3, VPL.0005.0067.0001 @.0003. According to Mr Swindells' notes, the meeting commenced at 9:30 and he was back at the office at 11:30.

from Mr Ahmed). Ms Gobbo told Mr Attrill that in providing information that she had learned of as a result of acting for Mr Ahmed, she had 'thrown privilege out the door'.²⁹⁴⁷ She said, 'technically' she should not have spoken about any of the matters as they were privileged. She said, 'actually I talked about privileged things with somebody else (referring to the SDU) who I thought wouldn't be telling anybody, but clearly they have'.²⁹⁴⁸

2014. Thus, Ms Gobbo confirmed what Mr Wilson was pondering, when he had spoken to Mr Sandy White and Mr Kapetanovski a few weeks earlier about the OPI powers with respect to legal privilege. At this stage, in 2006, the ESD investigators were receiving privileged information from Ms Gobbo. In evidence before the Commission Mr Wilson agreed that this should have raised some alarm bells.²⁹⁴⁹

2015. In his statement to the Royal Commission, Mr Attrill indicated that the problem of legal privilege had occurred to him also and he discussed it with Mr Wilson; 'I believe it would have also been discussed that Ms Gobbo might provide confidential information given by her clients and this would have been another reason not to have further contact with her'.²⁹⁵⁰ Mr Attrill said that after the meeting, he formed the view that the investigation should not have any more involvement with Ms Gobbo. He said, 'I believe that the decision not to pursue Ms Gobbo was made quickly and in my opinion was the right decision'.²⁹⁵¹

2016. **On the evidence, it is open to the Commissioner to find that Mr Wilson, a Superintendent in the unit responsible for maintaining ethical standards within the police force, upon becoming aware that Ms Gobbo may be passing confidential or privileged information to SDU handlers, should have taken steps to ensure that police officers, including the SDU and investigators using information provided by Ms Gobbo were being appropriately supervised, and were not using Ms Gobbo in potentially improper, unlawful or unethical ways.**

2017. Mr Attrill created an IR immediately after the meeting on 24 July 2006.²⁹⁵² In the IR he noted that Ms Gobbo became distressed when he conveyed to her information that came from a confidential source 'known only to her' (the SDU officers). It seems that Ms Gobbo managed to convince Mr Attrill that she should not be further pursued, and by way of a quid pro quo, offered ██████████ in their investigation, saying however that she would do so only when she had been

²⁹⁴⁷ Exhibit RC0253A Summary of meeting between Nicola Gobbo, Phillip Swindells, and Lindsay Attrill, 24 July 2006 VPL.2000.0002.0011 @.0014.

²⁹⁴⁸ Exhibit RC0253A Summary of meeting between Nicola Gobbo, Phillip Swindells and Lindsay Attrill, 24 July 2006 VPL.2000.0002.0011 @.0015.

²⁹⁴⁹ Transcript of Mr Rodney Wilson, 4 December 2019, 10440, TRN.2019.12.04.01.1.P.

²⁹⁵⁰ Exhibit RC1220 Statement of Mr Lindsay Attrill, 14 August 2019, 4 [21], VPL.0014.0049.0001 @.0004.

²⁹⁵¹ Exhibit RC1220 Statement of Mr Lindsay Attrill, 14 August 2019, 4 [21], VPL.0014.0049.0001 @.0004.

²⁹⁵² Exhibit RC0283 Information Report submitted by Mr Lindsay Attrill, 25 July 2006, VPL.0005.0147.0119.

informed that she would neither be called before a hearing or even required to make a statement.²⁹⁵³

2018. Even when 'emotional and to some degree agitated',²⁹⁵⁴ Ms Gobbo kept her wits about her. It is of note that ultimately none of Ms Gobbo, Mr Ahmed, or his co-accused provided assistance to the Operation Khadi investigation.²⁹⁵⁵
2019. At the same time as Messrs Attrill and Swindells were speaking to Ms Gobbo, members of the SDU were having a monthly unit meeting. After the meeting with ESD, Ms Gobbo was straight onto the phone to her handler, Mr Peter Smith, who had missed a couple of her calls. It is likely that he had to step out the unit meeting to return her call.²⁹⁵⁶ At the unit meeting, attended by all members of the SDU, concerns relevant to the ongoing risk management of Ms Gobbo (amongst other human sources of the SDU) were discussed.²⁹⁵⁷ The concerns included the fact that Carl Williams believed Ms Gobbo was responsible for Messrs Cooper, Thomas and McGrath 'rolling', and there were rumours of her being a 'dog'.²⁹⁵⁸
2020. When Mr Peter Smith returned to the unit meeting following his conversation with Ms Gobbo, he would not have been able to provide any encouraging news. Ms Gobbo had been angry and crying uncontrollably. She had made it clear to Mr Peter Smith that she was furious that Messrs Sandy White and Green had spoken to Mr Attrill, and effectively let him know that she was an informer. Whilst Mr Peter Smith was able to say to Ms Gobbo that he and Mr Sandy White were trying to head off OPI hearings, he could give her no guarantee that she would not be called. Ms Gobbo wanted Mr Peter Smith to advise Mr Sandy White that 'upset was not the word'.²⁹⁵⁹
2021. Mr Peter Smith also said to her, perhaps to calm her; 'there are very few people who know about your situation'.²⁹⁶⁰

2022. On the evidence, it is open to the Commissioner to find that on 24 July 2006, Mr Peter Smith deliberately deceived Ms Gobbo as to the extent of knowledge concerning her role as a human source. That is so because some weeks before, Mr Sandy White had expressed his grave concern to Mr Wilson that the list of people who knew about Ms Gobbo's role was growing weekly, and given his role and proximity to Mr Sandy White and knowledge of the issues pertaining to Ms

²⁹⁵³ Exhibit RC0283 Information Report submitted by Mr Lindsay Attrill, 25 July 2006, VPL.0005.0147.0119.

²⁹⁵⁴ Exhibit RC0283 Information Report submitted by Mr Lindsay Attrill, 25 July 2006, VPL.0005.0147.0119.

²⁹⁵⁵ Exhibit RC1789 Operation Khadi Ethical Standards Department File Management Log, 8-10, VPL.0005.0147.0163 @.0170-.0171.

²⁹⁵⁶ Exhibit RC0486 Mr Peter Smith diary, 24 July 2006, 234, VPL.2000.0001.5454 @.5687.

²⁹⁵⁷ Exhibit RC0281 ICR3838, 366-367 24 July 2006 VPL.2000.0003.1952-1953; Exhibit RC0284 SML3838, 24 July 2006, 40-41, VPL.2000.0001.9447 @.9486-.9487; Exhibit RC0305, Mr Sandy White diary, 24 July 2006, 5, 10, VPL.0100.0096.0311 @.0315, .0320; Exhibit RC0591 Mr Black diary, 24 July 2006, 2, RCMPI.0098.0001.0001 @.0002.

²⁹⁵⁸ Exhibit RC0305 Mr Sandy White diary, 24 July 2006, 10, VPL.0100.0096.0311 @.0320.

²⁹⁵⁹ Exhibit RC0305 Mr Sandy White diary, 15 June 2006, 10, VPL.0100.0096.0311 @.0320; Exhibit RC0828 Mr Rodney Wilson diary, 24 July 2006, 42 VPL.0005.0213.0023 @.0064; Exhibit RC0281 ICR3838 (039), 365 24 July 2006, VPL.2000.0003.1951.

²⁹⁶⁰ Exhibit RC0486 Mr Peter Smith diary, 24 July 2006, 234 VPL.2000.0001.5454 @.5687.

Gobbo's use as a human source, this issue would have been known to Mr Peter Smith.

2023. It is submitted that given the serious risks to safety in acting as a human source, if there was concern within the SDU about the growing number of people who were aware of Ms Gobbo's role, then that is not something that should have been kept from her. Whether or not the assertion was made to Ms Gobbo to comfort her, it is submitted that she was entitled to have been aware of the true risk that she was facing to both her career and her safety.
2024. One of the attendees at the SDU unit meeting (Mr Black) made the following prescient entry in his diary at the end of the meeting on 24 July 2006:²⁹⁶¹
- Future 3838? v Royal Commission?*
2025. When Mr Black provided relevant photocopy entries of his diaries to the Kellam review, this entry was missed, and not provided. The diary entries initially provided by Mr Black to the Commission were identical to those that were provided to the Kellam review, and accordingly, this entry was not initially provided to the Commission either, until Mr Black's diaries were produced to the Commission by Victoria Police. Mr Black said he discovered the entry in his diary during the week prior to giving evidence.²⁹⁶²
2026. Mr Black's explanation for making the entry was initially unclear. He said that he may not have verbalised the words 'Royal Commission' to the meeting; he may have said 'Listen, you know this will be the subject of a review'.²⁹⁶³
2027. Mr Black agreed that at around this time there were public calls for a royal commission into the conduct of Victoria Police because of allegations of corruption. He agreed that an inquiry of that sort is established normally to investigate improper conduct.²⁹⁶⁴ Mr Black considered that one of the issues that might be the subject of scrutiny was the use of Ms Gobbo as an informer against her clients, and in particular, he referred to the decision that had been made to permit Ms Gobbo to provide legal advice to Mr Cooper on 22 April 2006, some months previously.²⁹⁶⁵
2028. Ultimately, Mr Black's evidence was that he would have raised his concerns at the unit meeting, and there would have been discussions about them.²⁹⁶⁶
2029. Chapter 10 contains a submission as a finding which is open on the evidence in this regard, namely that those present at the unit meeting on 24 July 2006 knew that Victoria Police's use and management of Ms Gobbo as a human source represented serious impropriety of sufficient scale and severity to warrant the establishment of a Royal Commission.

²⁹⁶¹ Exhibit RC0591 Mr Black diary, 24 July 2006; RCMPI.0090.0001.0001@.0144.

²⁹⁶² Transcript of Evidence of Mr Black, page 8206 – 8208.

²⁹⁶³ Transcript of Evidence of Mr Black, page 8206 – 8208.

²⁹⁶⁴ Transcript of Evidence of Mr Black, page 8211.

²⁹⁶⁵ Transcript of Evidence of Mr Black, page 8209 – 8211.

²⁹⁶⁶ Transcript of Evidence of Mr Black, page 8211 – 8212.

2030. However, the Monthly Source Review completed later that day on 24 July 2006 by Mr Sandy White did not contain an indication of that form of risk, but rather a relatively bland note to the effect that Ms Gobbo continued to be an effective source of high level intelligence, that she was under suspicion of assisting police, and that SDU management remained essential.²⁹⁶⁷
2031. It is submitted that it is not surprising that in late 2008, and early 2009, one of the reasons offered in the SWOT analysis (see Chapter 17) for not utilising Ms Gobbo as a witness, was the risk that scrutiny of her conduct (and that of the SDU) would be the subject of an inquiry. Indeed, in the earlier notes prepared for discussion amongst the SDU, prior to the completion of the SWOT analysis, was the suggestion of a royal commission.

The Arrangement to Approach Mr Ashton to Head Off the OPI Hearing

2032. Later on 24 July 2006, Mr Sandy White updated Mr Biggin and indicated a need to find out how ESD documented their files. He then contacted Mr Wilson to discuss the 24 July ESD meeting and was critical of Mr Attrill for disclosing his awareness of Ms Gobbo's status.
2033. It is submitted that Mr Sandy White's initial reluctance to make Mr Ashton aware of Ms Gobbo's situation had changed because it was now apparent that the OPI was determined to proceed. He suggested to Mr Wilson that Mr Overland should approach Mr Ashton and brief him about Ms Gobbo's status as a human source, and request that the OPI take no further action regarding her. It was agreed that they would meet with Mr Biggin the following day to further discuss this approach.²⁹⁶⁸

25 July 2006 Meeting

2034. On 25 July 2006, prior to his planned meeting with Mr Biggin, Mr Wilson briefed Mr Cornelius about the situation with Ms Gobbo.²⁹⁶⁹ In evidence, Mr Wilson agreed that the issues he would have discussed with Mr Cornelius, were those raised by Mr Sandy White in their earlier conversation; that is the risk of exposing Ms Gobbo as a source and having Mr Overland approach Mr Ashton, in order to brief him and release Ms Gobbo from the investigation.²⁹⁷⁰
2035. Further, if it is accepted that Messrs Wilson and Attrill, the previous day, had discussed the concern that Ms Gobbo may provide confidential information learned in her capacity as a barrister, there would seem to be no reason that Mr Wilson would not discuss that with Mr Cornelius also.
2036. Whilst Mr Cornelius accepted that he would have been briefed on the issues raised by Mr Sandy White as Mr Wilson's supervisor and direct line of report, he had no recollection of the details, and did not make any

²⁹⁶⁷ Exhibit RC0284 SML3838, 24 July 2006, 41, VPL.2000.0001.9447 @.9487.

²⁹⁶⁸ Transcript of Mr Sandy White, 2 September 2019, 5302, TRN.2019.09.02.01.C; Exhibit RC0305 Mr Sandy White diary, 24 July 2006, 11, VPL.0100.0096.0311 @.0321.

²⁹⁶⁹ Exhibit RC0828 Mr Rodney Wilson diary, 25 July 2006, 65, RCMP.0118.0001.0001 @.0065.

²⁹⁷⁰ Transcript of Mr Rodney Wilson, 4 December 2019, 10442-10443, TRN.2019.12.04.01.1.P.

corresponding diary notes.²⁹⁷¹ He did not recall being told by Mr Wilson that Ms Gobbo was a human source.²⁹⁷² As a matter of common sense, if it was the intention of Mr Wilson to represent the ESD position at the meeting with Mr Biggin, he would have needed to explain the situation to his superior officer to be properly authorised to do so.

2037. Mr Cornelius accepted that there would need to be a sound explanation for Mr Overland to approach Mr Ashton and request no further action on Ms Gobbo, although he could not recall ever being given such an explanation.²⁹⁷³
2038. At the afternoon meeting on 25 July 2006 between Messrs Biggin, Sandy White, Wilson and Peter Smith, it was agreed that Mr Overland would speak to Mr Ashton and ask the OPI not to pursue Ms Gobbo. Mr Sandy White's notes record that 'Luke Cornelius briefed. Agrees A/C Overland to speak to Graham Ashton (OPI) re issue. Advise not to proceed'.
2039. Mr Cornelius said that although both Mr Sandy White's and Mr Wilson's diaries record that he was consulted on the need to approach Mr Ashton to ask him not to pursue a hearing with Ms Gobbo, he was not prepared to accept that he was briefed by Mr Wilson. He stated, 'it's Chinese whispers again'.²⁹⁷⁴
2040. It is submitted that Mr Cornelius' explanation of 'Chinese whispers' cannot account for these entries. Mr Wilson assumed that he would have received these instructions from Mr Cornelius in his earlier conversation with him; they discussed it and came to the decision to advise Mr Ashton not to proceed with putting Ms Gobbo into a hearing.²⁹⁷⁵
2041. Mr Sandy White also noted that it was agreed that Mr Biggin would speak to Mr Overland to find out if the information about Ms Gobbo's identity as a human source could be limited to Mr Ashton at the OPI.²⁹⁷⁶ During this meeting on 25 July 2006, there was discussion about what the OPI staff would think if the investigation or Ms Gobbo's involvement in it was stopped.²⁹⁷⁷ Given the frustration and disagreement expressed by the OPI investigators at the 21 July meeting to the suggestion that Gobbo be interviewed by ESD prior to their hearing, that was a reasonable concern. Further, it was agreed at the meeting not to pursue Mr Ahmed because that would further highlight Ms Gobbo's assistance.²⁹⁷⁸

²⁹⁷¹ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11076, TRN.2019.12.12.01.P.

²⁹⁷² Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11077, TRN.2019.12.12.01.P.

²⁹⁷³ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11077, TRN.2019.12.12.01.P.

²⁹⁷⁴ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11080, TRN.2019.12.12.01.P.

²⁹⁷⁵ Transcript of Mr Rodney Wilson, 4 December 2019, 10443, TRN.2019.12.04.01.1.P.

²⁹⁷⁶ Exhibit RC0305 Mr Sandy White diary, 25 July 2006, 14, VPL.0100.0096.0311 @.0324; Transcript of Mr Sandy White, 2 September 2019, 5302, TRN.2019.09.02.01.C.

²⁹⁷⁷ Exhibit RC0305 Mr Sandy White diary, 25 July 2006, 14, VPL.0100.0096.0311 @.0324.

²⁹⁷⁸ Exhibit RC0305 Mr Sandy White diary, 25 July 2006, 14 VPL.0100.0096.0311 @.0324.

2042. Mr Wilson recorded in his diary at 5pm on 25 July 2006 following the meeting: 'ESD happy to withdraw her from investigation. Need to brief Overland and deal with Ashton (OPI) on the issue'.
2043. In evidence, Mr Cornelius agreed that it would be natural to question why the decision not to pursue Ms Gobbo was made, however he did not ask these questions and he was not told the answers at the time.²⁹⁷⁹ Mr Cornelius maintained that he was not aware of Ms Gobbo's status, and when Mr Wilson briefed him, he did not canvas the issues with him.²⁹⁸⁰ In light of the contemporaneous notes and the foregoing, it is submitted that Mr Cornelius' evidence should be rejected and the submission at paragraph 1990 as to Mr Cornelius having been briefed on 6 June 2006 is repeated.
2044. The next day, 26 July 2006, as per the agreement of the previous day, Mr Biggin met with Mr Overland concerning the proposed meeting with Mr Ashton to discuss pulling Ms Gobbo from OPI hearings on the basis that it was not in the public interest for her to do so.²⁹⁸¹ Mr Biggin reported back to Mr Sandy White that he had spoken to Mr Overland who was meeting with Mr Ashton the following morning in relation to the possible compromise of Ms Gobbo in the Operation Khadi investigation. Mr Biggin advised that Mr Overland would request of Mr Ashton that he take no further action in relation to Ms Gobbo, and the investigators at Victoria Police would be the primary investigators with the OPI dropping off.²⁹⁸²

27 July 2006 - Meeting between Overland, Cornelius and Ashton and a Decision is Made Not to Call Ms Gobbo to an OPI Hearing

2045. On 27 July 2006 at about 10.00am, Mr Overland and Mr Cornelius met with Mr Ashton. Mr Ashton's brief diary entry records the meeting but does not record any discussion about Operation Khadi.²⁹⁸³ Mr Ashton's diary contains a four-line record that relates to another matter that was also being dealt with at that stage – Operation Air. Mr Ashton next made an entry in his diary at 11:30 am. Assuming the meeting went for a significant portion of that one and a half hours, it is submitted that it is likely that the economical note does not record all matters that were being discussed by the Assistant Commissioners of Crime and Ethical Standards of Victoria Police and the Deputy Director of Police integrity.
2046. Unfortunately, the task of establishing what decisions were made (and the rationales for those decisions) is not aided by the fact that neither Mr Overland nor Mr Cornelius made a record of the discussion. Both had made deliberate decisions shortly prior to this meeting, not to record events in

²⁹⁷⁹ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11080, TRN.2019.12.12.01.P.

²⁹⁸⁰ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11081, TRN.2019.12.12.01.P.

²⁹⁸¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 26 July 2006, 319 RCMP1.0075.0001.0001 @.0319; Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11081, TRN.2019.12.12.01.P; Transcript of Mr Sandy White, 2 September 2019, 5302, TRN.2019.09.02.01.C; Exhibit RC0305 Mr Sandy White diary, 26 July 2006, 15, VPL.0100.0096.0311 @.0325.

²⁹⁸² Exhibit RC0305 Mr Sandy White diary, 26 July 2006, 15, VPL.0100.0096.0311 @0325.

²⁹⁸³ Exhibit RC0861 Chief Commissioner Graham Ashton diary, 27 July 2006 IBAC.0015.0001.0001. See Mr Ashton's diary records a 10:00 meeting between he, Overland and Cornelius and in four lines refers to an 'Operation Air'. His next diarised meeting is at 11:30.

daily diaries. Mr Overland had ceased keeping diary notes on 17 July 2006, a little over a week before this meeting. Likewise Mr Cornelius had ceased keeping notes of his activities four days after Mr Overland, on 21 July 2006.²⁹⁸⁴ Otherwise, there appears to be no record of the meeting, at which a decision was made to effectively neuter the OPI involvement in a joint agency investigation, which involved allegations of serious corruption on the part of members and former members of Victoria Police. It appears that the potential compromise of Ms Gobbo as a human source was the main, if not only, contributing factor to this decision.

2047. It is submitted that whilst it may be the case that members of Victoria Police of the rank of Assistant Commissioner, might justifiably be released from the task of slavishly recording their conduct in diaries, there is no excuse for not ensuring that important decisions regarding the direction, management and conduct of significant investigations, such as the decision made in this meeting, are not recorded, explained and justified.
2048. The Commission has been unable to find a record made by either Mr Cornelius or Mr Overland which record and justify the decision to remove Ms Gobbo from the investigation. It is submitted that is likely that they made none. It is submitted that one or other of them should have made a record of what was discussed at that meeting. That is so because Victoria Police should be in a position to justify the decision.
2049. It is submitted that this is an example amongst others confronted in this Commission, where it has been difficult to determine and assess the conduct of the most senior members of Victoria Police because of an absence of records.
2050. It is clear enough that Mr Ashton did not record the discussion in his diary, and the OPI's predecessor, the Independent Broad-Based Anti-Corruption Commission (IBAC), has not provided a document that provides a contemporaneous record of the meeting. As to whether there was such a record, it is not possible to say, and this Commission is not directly examining the conduct of the OPI. The result of the meeting with Mr Ashton at the OPI was that although Ms Gobbo would not be questioned in relation to Operation Khadi, she may still be coercively called in relation to the murders of the Hodsons.²⁹⁸⁵
2051. Despite the fact that the participants at the meeting did not make a record of their discussions and decisions concerning the fate of the OPI's involvement in Operation Khadi, it is clear that the matter of Khadi was discussed at the meeting. Shortly after the meeting finished, information was passed back down the line by Messrs Overland and Cornelius to their respective junior officers.
2052. Mr Cornelius briefed Mr Wilson at 11:30am and at 1:30pm, Mr Overland briefed Messrs Biggin and Sandy White.
2053. Mr Wilson recorded in his diary at 11:30am that day, that Mr Cornelius briefed him about the 'Gobbo issue' and said that the OPI wanted to

²⁹⁸⁴ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11071, TRN.2019.12.12.01.P.

²⁹⁸⁵ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11084, TRN.2019.12.12.01.P.

coercively question her regarding Dale and Hodson matters. Mr Attrill, the ESD investigator, was also briefed.²⁹⁸⁶ Presumably, Mr Attrill was not briefed solely about the decision to have Ms Gobbo called before the OPI for the Dale/Hodson matters in due course, because that was not a matter of concern for him. Undoubtedly, he was informed also that Ms Gobbo was not going to be further investigated in his matter – the Khadi investigation; no doubt to his relief.

2054. In Mr Cornelius' evidence to the Commission, he stated Mr Wilson's note is a reflection of his understanding of what was proposed; that Ms Gobbo was to be coercively questioned by the OPI about the Dale and Hodson matter.²⁹⁸⁷ However, as pointed out above with respect to Mr Attrill, it is submitted that was only half the picture. The point of the meeting was to discuss the situation with the ESD investigation Operation Khadi. It follows, that Mr Cornelius must have been aware of that matter also.

2055. Further, the above briefing to Mr Wilson by Mr Cornelius is consistent with the briefing that Mr Overland gave to Messrs Biggin and Sandy White at 1:30 in the afternoon 'regarding Ms Gobbo and the OPI'. Mr Sandy White recorded the discussion in his diary as follows:²⁹⁸⁸

- *AC has met with Graham Ashton OPI.*
- *OPI happy to drop off John Brown and Shields issue.*
- *No requirement to examine 3838 re same.*
- *Believe source and Paul Dale had relationship.*
- *Want to examine source in future re leaked IR 44.*
- *Belief that source may have been conduit between Mokbel and Williams and Dale re IR. Leading to killing of Hodsons.*
- *Human source believes Dale involved in Oakleigh burglary.*
- *Belief that "Mokbel T", (for Tony) and "Williams K", (for Carl) "Ordered killing.*
- *Fitzgerald to conduct inquiry".*
- *Agreed:*
- *Source can be told no OPI hearing re John Brown etc.*
- *At a time in the future source can be pre-warned re OPI hearing re Dale etc,*
- *Source may speak to handlers re same.*
- *Trust issue re informing source of hearing before it happens.*

²⁹⁸⁶ Exhibit RC0828 Mr Rodney Wilson diary, 27 July 2006, 67, RCMP1.0118.0001.0001 @.0067.

²⁹⁸⁷ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11084, TRN.2019.12.12.01.P.

²⁹⁸⁸ Exhibit RC0407 Mr Sandy White diary, 27 July 2006, 17, VPL.0100.0096.0327 @.0327.

- *Peter Smith to be told only*.²⁹⁸⁹

2056. Mr Sandy White dealt with this meeting in paragraphs 136, 151 and 152 of his second statement to the Commission.²⁹⁹⁰ The effect of these paragraphs is consistent with the above notes although, he makes it clear that he was informed by Mr Overland that the agreement to 'drop off the John Brown/Shields issue' followed Mr Ashton being told that of the risks that a compulsory hearing would compromise Ms Gobbo who was a human source.²⁹⁹¹
2057. Both Mr Cornelius and Mr Overland were able to indicate to their officers that a decision had been made with respect to Ms Gobbo in the meeting. It seems that a strong enough indication had been given by Mr Ashton, to enable Mr Overland to tell his officers that Ms Gobbo could be informed that she would not be examined, and that further, she could be forewarned that she would be called in the future to an OPI hearing in relation to the Hodson murders.
2058. Accordingly, Ms Gobbo was informed in a discussion with her handler that afternoon that there would be no further investigation or OPI involvement regarding John Brown.²⁹⁹² Then, the following day she was given further assurances that her involvement in the corruption investigation of Mr Shields and John Brown was over, that she would not be brought before the OPI, and that she would not even be asked to make a statement. She was reassured about the protection of her status.²⁹⁹³
2059. Mr Ashton on the other hand, said that he would not have been able to give an undertaking to Mr Overland (and Mr Cornelius) not to tell anyone else at the OPI that Ms Gobbo was a source, and further, if he had agreed that Ms Gobbo would not be required to further participate in the OPI investigation, he would have told his investigators.²⁹⁹⁴
2060. It is notable that although the decision was obviously made on 27 July 2006 to release Ms Gobbo from the investigation, it seems that the OPI investigators, Messrs Kapetanovski and Davson were seeking information about Ms Gobbo from their ESD colleagues in late August 2006. It would be open to conclude that they had not been given a proper explanation by that time, as to why Ms Gobbo could not be called, and were still seeking one.
2061. In paragraph 24 of his statement, Mr Attrill, referring to his investigation log, said that he provided a document to the OPI. The log shows that on 30 August 2006 Mr Attrill prepared a Briefing Paper (which was an extract of his information report dated 25 July 2006) regarding his meeting with Ms Gobbo on 24 July 2006, for information of the OPI, and emailed it on 4 September 2006.²⁹⁹⁵ The email purports to contain the 'substance' of the meeting between Ms Gobbo and Messrs Swindells and Attrill, and at its end, Mr Attrill

²⁹⁸⁹ Exhibit RC0407 Mr Sandy White diary, 27 July 2006, 17, VPL.0100.0096.0327 @.0327.

²⁹⁹⁰ Exhibit RC0075A Statement of Mr Sandy White, undated, 36-37 [151], COM.0019.0004.0001 @.0036-.0037.

²⁹⁹¹ The reference in paragraph 151 to a meeting with Mr Overland on 27 April 2006 is clearly in error and should refer to 27 July 2006

²⁹⁹² Exhibit RC0281 ICR3838 (039), 371 27 July 2006 VPL.2000.0003.1957.

²⁹⁹³ Exhibit RC0281 ICR3838 (039), 372 28 July 2006, VPL.2000.0003.1958.

²⁹⁹⁴ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10706, TRN.2019.12.09.1.P.

²⁹⁹⁵ Exhibit RC0864 Email from Lindsay Attrill to Michael Davson, 4 September 2006, IBAC.0020.0001.0023.

wrote, 'I cannot take it any further'. Mr Attrill did in fact have detailed notes of the discussion that he had had with Ms Gobbo, which contained significantly more information, including the assertion that \$20,000 had been stolen rather than \$5,000. Those notes were not provided, presumably out of concern that they might have revealed Ms Gobbo as an informer.

28 July 2006 – Discussions with Ms Gobbo

2062. On 28 July 2006, Ms Gobbo had a face-to-face meeting with Messrs Sandy White and Peter Smith. It is submitted that if Mr Sandy White did not know by this time that the SDU could not rely upon Ms Gobbo to regulate her behaviour and act ethically (and given her express statement to him on 20 April 2006, he must have known), then she gave him another opportunity to reflect during this meeting.
2063. The ICR contains details of matters discussed between the SDU officers and Ms Gobbo concerning the Operation Khadi investigation. Amongst other things, she was told (falsely) that Mr Attrill and the ESD were not aware that she was a human source, and that Mr Overland had advised that her involvement in the Operation Khadi investigation had finished; there would be no statement and no summons by the OPI.²⁹⁹⁶
2064. However what was not adverted to in the ICR or the SML or any risk assessment, was the following discussion about Ms Gobbo's reaction to investigators having been told she was the source of information provided to the SDU which also took place during the meeting:

MS GOBBO: But, Sandy White, if I'm gunna - I - and repeatedly I've chucked ethics out the window, I've chucked legal professional privilege out the window, I've chucked my career out the window if any of this ever came out. Forget about - I wouldn't even be covered by insurance. I would be so fucked it's not funny, and I can't tell you those things if you're gunna pass it on that specifically. You can't do it, not that amount, not the - not the specific of it or you can, but not to idiots.

MR SANDY WHITE: Well I didn't pass it on to I can guarantee you that.

MS GOBBO: O.K. Well, then - - -

MR SANDY WHITE: And - and it's very hard to pass on certain information - - -

MR PETER SMITH: That's the trouble.

MR SANDY WHITE: - - - and - and be too vague about it. A \$20,000 theft by a policeman is - there's people within our organisation at quite a high level that expect to know that. And at the time, I was thinking,

²⁹⁹⁶ Exhibit RC0281 ICR3838, 372, 28 July 2006, VPL.2000.0003.1958.

"Well, you're gunna talk to Phil about this, so I don't see any harm in this."²⁹⁹⁷

Evidence of Mr Overland

2065. In evidence before the Commission, prior to being shown the contemporaneous notes of Mr Sandy White, Mr Overland said that he did not specifically recall telling Mr Ashton about Ms Gobbo's status in July 2006 in relation to Khadi, as his recollection was that Mr Ashton found out in mid-2007, when he became part of the steering committees.²⁹⁹⁸ Mr Overland said he could understand the SDU's concern about the potential to compromise Ms Gobbo, but would not himself have been concerned about her appearing before the OPI.²⁹⁹⁹ As to telling the OPI about Ms Gobbo's status, his view was that it was appropriate and in fact important to let the OPI know that Ms Gobbo was a human source if they needed to call Ms Gobbo for one of their matters.³⁰⁰⁰
2066. Mr Overland accepted that contemporary diary records, especially that of Mr Sandy White, compellingly suggest that he did discuss Ms Gobbo and Operation Khadi with Mr Ashton on 27 July 2006.³⁰⁰¹ Whilst he accepted that the entries suggest that he may have asked Mr Ashton not to call Ms Gobbo to a hearing,³⁰⁰² he maintained that if he did discuss the matters listed in Mr Sandy White's diary entry of 27 July 2006, he would have made it clear to Mr Ashton that the decision was his and not that of Victoria Police. He said the matter would have been put on the basis that it was a matter for Mr Ashton, because he understood and respected the separation between the functions of the OPI and those of Victoria Police. Mr Overland said that it was not something he could have directed them or sought to direct them on.³⁰⁰³
2067. Accepting the accuracy of Mr Sandy White's note, Mr Overland was nonetheless surprised that he got his answer so quickly,³⁰⁰⁴ presumably because he would have expected a considered decision by the OPI, with Mr Ashton at least consulting with the manager of his investigation, Mr Kapetanovski, if not the Director about a decision to curtail its role in the joint investigation.
2068. Mr Overland agreed that the function of the OPI was to independently inquire into allegations of corruption in the police force and an arrangement suggested by the documents he had been shown appeared to be a concerning hampering of its ability to do so.³⁰⁰⁵

²⁹⁹⁷ Exhibit RC0282 Transcript of conversation between Nicola Gobbo, Sandy White and Peter Smith, 28 July 2006, 81, VPL.0005.0104.0440 @.0520; Exhibit RC0282 Audio of conversation between Nicola Gobbo, Sandy White and Peter Smith, 28 July 2006, VPL.2000.0002.4234.

²⁹⁹⁸ Transcript of Mr Simon Overland, 17 December 2019, 11552, TRN.2019.12.17.01.P.

²⁹⁹⁹ Transcript of Mr Simon Overland, 17 December 2019, 11551, TRN.2019.12.17.01.P.

³⁰⁰⁰ Transcript of Mr Simon Overland, 17 December 2019, 11551-52, TRN.2019.12.17.01.P.

³⁰⁰¹ Transcript of Mr Simon Overland, 18 December 2019, 11688, RC_MPI_18Dec19_provisional.

³⁰⁰² Transcript of Mr Simon Overland, 18 December 2019, 11687, RC_MPI_18Dec19_provisional.

³⁰⁰³ Transcript of Mr Simon Overland, 18 December 2019, 11688, RC_MPI_18Dec19_provisional.

³⁰⁰⁴ Transcript of Mr Simon Overland, 18 December 2019, 11688, RC_MPI_18Dec19_provisional.

³⁰⁰⁵ Transcript of Mr Simon Overland, 18 December 2019, 11689, RC_MPI_18Dec19_provisional.

Evidence of Mr Cornelius

2069. Mr Cornelius accepted that he was at a meeting with Mr Overland and Mr Ashton on 27 July 2006, however he was neither prepared to accept that Operation Khadi was discussed (because Mr Ashton's notes referred only to Operation Air),³⁰⁰⁶ nor that he was aware that Ms Gobbo's role as a human source was disclosed to him.
2070. Mr Cornelius has consistently maintained that his belief was that he first found out that Ms Gobbo was a human source in 2009 in the context of his role in the Briars Taskforce.

2071. If the Commissioner does not accept the submission at paragraphs [1987] to [1990] as to Mr Cornelius' knowledge on 6 June 2006 that Ms Gobbo was a registered human source, then on the evidence, it is open to the Commissioner to find that Mr Cornelius became aware that Ms Gobbo was a registered human source during the Operation Khadi investigation. That is so because of his involvement in the matters set out in paragraphs [2034] to [2068] above.

2072. Mr Cornelius was asked about his knowledge of Ms Gobbo in 2006. He said that he was aware that she was a barrister who acted for the type of individuals who were being investigated by Purana.³⁰⁰⁷ He said that he would have found it extraordinary if he had learned that Ms Gobbo was a human source at that time and would have understood the implications and risks. Mr Cornelius was aware that the SDU ran high risk and high value sources.³⁰⁰⁸ He agreed if Ms Gobbo was to be used as a source, advice would be needed and extreme care exercised.³⁰⁰⁹

2073. If the Commissioner accepts that Mr Cornelius became aware of Ms Gobbo's role as a human source in mid-2006, it is open to the Commissioner to find that as Assistant Commissioner, Ethical Standards Department, being the unit responsible for maintaining ethical standards within the police force, he should have:

- a. insisted on the obtaining of legal advice**
- b. insisted on measures being put in place to ensure that in the use of Ms Gobbo as a human source, and in the handling of any information received from her, there was no potential to adversely affect the proper administration of justice.**

³⁰⁰⁶ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11083, TRN.2019.12.12.01.P.

³⁰⁰⁷ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11034, TRN.2019.12.12.01.P.

³⁰⁰⁸ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055 – 11056, TRN.2019.12.12.01.P.

³⁰⁰⁹ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11056, TRN.2019.12.12.01.P.

Evidence of Mr Ashton

2074. Mr Ashton said that he was unable to recall the meeting on 27 July 2006. Whilst he accepted that he did meet with Mr Overland and Mr Cornelius on that day, he has no memory of having any conversation with them about the Khadi matter at that time.³⁰¹⁰ The only note taken by Mr Ashton was with respect to Operation Air and it was his evidence that if other matters were discussed, he would have taken a note of them.³⁰¹¹
2075. Mr Ashton maintained in his evidence to the Commission that his recollection of when he became aware Ms Gobbo was a source was in 2007, and not in 2006.³⁰¹²
2076. When shown Mr Sandy White's diary entry on 27 July 2006, which indicated Mr Ashton had been informed by Mr Overland on that day that Ms Gobbo was a human source, Mr Ashton said he did not have a recollection of Mr Overland telling him that.³⁰¹³
2077. Mr Ashton could not offer any explanation for the change in direction of the OPI Operation Khadi investigation. His evidence was that this was a 'missing piece' for him. He thought that there was a briefing paper prepared for the examiner, and he could not unilaterally call off the examination.³⁰¹⁴

2078. On the evidence, it is open to the Commissioner to find that Mr Ashton was briefed as to Ms Gobbo's status as a human source on 27 July 2006. That is so because of the contemporaneous diary entries of Mr Sandy White and Mr Wilson, coupled with the abrupt end to the OPI investigation.

2079. On the evidence, it is open to the Commissioner to conclude that at the meeting between Messrs Overland, Ashton and Cornelius on 27 July 2006, Mr Ashton was prevailed upon to agree not to call Ms Gobbo to a coercive hearing at the OPI, because to do so would expose her as a human source.

2080. Mr Sandy White says that Mr Overland told him and Mr Biggin as much, in his own meeting with them on 27 July 2006. It is submitted that if that is what Mr Overland said to Messrs Biggin and Sandy White shortly after the meeting with Mr Ashton, then it is likely to be true. That is consistent with Mr Overland's views that he would think it appropriate, indeed necessary, to tell

³⁰¹⁰ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10693 -10694, TRN.2019.12.09.1.P

³⁰¹¹ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10703, TRN.2019.12.09.1.P

³⁰¹² Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10694, TRN.2019.12.09.1.P

³⁰¹³ Exhibit RC0407 Mr Sandy White diary, 27 July 2006, 17, VPL.0100.0096.0327 @.0327

³⁰¹⁴ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10701 - 10702, TRN.2019.12.09.1.P

the OPI that a person it was going to examine was a human source, despite him not recalling ever having such a discussion.

2081. Further, this is consistent with the notes of Mr Sandy White, of the meeting of 25 July 2006, which evidence the agreement of Messrs Biggin, Wilson, Sandy White and Peter Smith, that Mr Overland needed to tell Mr Ashton (and only Mr Ashton) that Ms Gobbo was a human source, and therefore she should not be called. The fact that Mr Ashton apparently made the decision, which in effect 'neutered' his own investigation so quickly, without discussing it with his investigators, suggests that he must have been provided with a persuasive explanation to justify it.

2082. **If the Commissioner accepts that Mr Ashton was briefed as to Ms Gobbo's status as a human source on 27 July 2006, and the OPI Operation Khadi investigation ceased as a result of a request by Victoria Police to preserve the secrecy of Ms Gobbo's role and not to compromise it, on the evidence, it is open to the Commissioner to find that this was a lost opportunity for the regulators (the OPI led by Mr Ashton; and the ESD) to take steps to cause Ms Gobbo's role as a human source to be scrutinised in 2006.**

Issues surrounding Joint Agency Agreements between Victoria Police and OPI

2083. Operation Khadi was an early joint agency agreement between Victoria Police and the OPI.
2084. The OPI was established in 2004 by the Victorian Parliament to ensure that the highest ethical and professional standards were maintained within Victoria Police and that police corruption and serious misconduct was detected, investigated and prevented.³⁰¹⁵ In the opinion of Sir Ken Jones, referring to Operation Diana, the OPI becoming Victoria Police's investigative partner was a 'gross error.'³⁰¹⁶
2085. Sir Ken considered that the OPI ought not get involved in joint operations with police because it was unable to maintain its independence, thus creating a conflict of interest and resulting in situations where they either 'sank or swam together'.³⁰¹⁷ Sir Ken observed that the level of collaboration illustrated that the 'roles of regulator and regulated were hopelessly confused.'³⁰¹⁸ Mr Ashton disagreed with this proposition.³⁰¹⁹
2086. During Mr Overland's evidence, he was asked whether he saw a problem with a regulator and the regulated entity engaging in a joint inquiry. Mr

³⁰¹⁵ Office of Police Integrity, Annual Report, 2005 @3. [publicly available]

³⁰¹⁶ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 6 [31], COM.0088.0001.0001 @.0006.

³⁰¹⁷ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 6 [31], COM.0088.0001.0001 @.0006.

³⁰¹⁸ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 7 [33], COM.0088.0001.0001 @.0007.

³⁰¹⁹ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10655, TRN.2019.12.09.01.P

Overland said it was not necessarily a problem, however there was no perfect way that would not result in consequences. He stated that any problem that would arise was dependent on the circumstances. Nevertheless, Mr Overland stated that he understood Sir Ken's point of view with respect to the OPI and Victoria Police sinking or swimming together in a joint operation.³⁰²⁰

2087. Commander John Nolan worked at the OPI between August 2005 and November 2012 as a team leader and investigations manager.³⁰²¹ While Mr Nolan was at the OPI, one of his tasks was to prepare the joint agency agreements.³⁰²²

2088. In Mr Nolan's view, OPI engagement in joint operations with Victoria Police was problematic. He explained that if complaints or concerns were generated during an investigation it would be difficult for the OPI to investigate them independently because they were party to the investigation.³⁰²³ Mr Nolan accepted that if there was a suggestion that an investigation had gone 'off the rails', it would be hard for the OPI to remain objective with regard to allegations that the investigation had been improperly carried out, if such allegations were made.³⁰²⁴

2089. Mr Nolan informed the Commission that he had discussed these concerns with Mr Ashton.³⁰²⁵ In particular, he recalled expressing them in relation to Operation Neon, which was the OPI operation connected to the Briars Taskforce.³⁰²⁶ As pointed out in Chapter 14, the Operations Management Group for Operation Neon comprised Mr Overland, Mr Cornelius and Mr Ashton.³⁰²⁷

2089.1. It seems that two members of the Legal Services Team of the OPI, namely Greg Carroll and Vanessa Twigg, had raised their concerns with Mr Nolan regarding the proposal to enter into a joint agreement with Victoria Police for the purposes of 'oversighting' the Petra investigation.³⁰²⁸ In an email dated 18 June 2007 Mr Nolan stated that he had spoken to Mr Ashton and was asked to prepare a joint agency agreement. Mr Nolan pointed out that the agreement would appear in conflict with their oversight role, however it was a unique investigation.³⁰²⁹ The email suggests that the legal team did not agree with the course of action, it not being consistent with the OPI

³⁰²⁰ Transcript of Mr Simon Overland, 18 December 2019, 11692, RC_MPI_18Dec19_provisional.

³⁰²¹ Exhibit RC1345 Statement of Mr John Nolan, 10 December 2019, 2 [10], VPL.0014.0116.0001 @.0002.

³⁰²² Exhibit RC1345 Statement of Mr John Nolan, 10 December 2019, 4 [15], VPL.0014.0116.0001 @.0004.

³⁰²³ Transcript of Mr John Nolan, 21 February 2020, 14706, TRN.2020.02.21.01.P.

³⁰²⁴ Transcript of Mr John Nolan, 21 February 2020, 14707, TRN.2020.02.21.01.P.

³⁰²⁵ Exhibit RC1345 Statement of Mr John Nolan, 10 December 2019, 7 [26], VPL.0014.0116.0001 @.0007; Transcript of Mr John Nolan, 21 February 2020, 14707, TRN.2020.02.21.01.P

³⁰²⁶ Exhibit RC1345 Statement of Mr John Nolan, 10 December 2019, 6 [23], VPL.0014.0116.0001 @.0007.

³⁰²⁷ Exhibit RC0865 Joint Agency Agreement: Taskforce Briars, 22 March 2007 VPL.0005.0012.0610; Exhibit RC1345 Statement of Mr John Nolan, 10 December 2019, 6 [24], VPL.0014.0116.0001 @.0006; Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10718, TRN.2019.12.09.01.P.

³⁰²⁸ Exhibit RC1345 Statement of Mr John Nolan, 10 December 2019, 7 [27], VPL.0014.0116.0001 @.0007.

³⁰²⁹ Exhibit RC0866 Email from Ms Vanessa Twigg to Mr John Nolan and others, 21 June 2007, IBAC.0020.0001.0061.

having an oversight role.³⁰³⁰ Again Mr Ashton disagreed with this proposition.³⁰³¹

2090. Subsequently, in a further email from Mr Carroll the legal team's view was clarified. In it, Mr Carroll stated that it would be advantageous for OPI not to engage in a joint agency agreement and to maintain its independent oversight in the investigation. He expressed this to be the legal team's strategic preference however there was no vehemence in this view as they recognised the practical advantages for there being a joint agency agreement.³⁰³² Mr Carroll's opinion was in the following terms:

SHOULD THERE BE A JOINT AGENCY AGREEMENT? (sic)

I have earlier put the view that it would be advantageous for OPI not to engage in a Joint Agency Agreement and to maintain our independent oversight role in this matter. This is because it will be necessary for OPI to conduct a critical assessment of the entire investigation of the Hodson murders to date. I suspect there will be much about which OPI may be critical. These murders have raised some very tricky questions since day one. OPI led the way with the investigation of IR44 (VicPol didn't even know this document was missing). Despite this - and the repeated speculation in the media and elsewhere arising out of the Hodson case about police involvement in the murders, police links with the so-called gangland killings etc. - it appears these questions have not been seriously addressed by VicPol until very recently with the formation of Taskforce Petra.

In this context there are obvious advantages in OPI remaining at arm's length from the whole VicPol operation. OPI should not be seen to have compromised our independence.

Having said this, it is recognised that there are strong counter arguments.

- *OPI wants the murder of the Hodsons solved because it will clarify the murky questions of possible police involvement and links with criminals etc. to which I have referred above. OPI should be, and is, prepared to offer any assistance it can to VicPol to achieve this goal, including sharing of information and resources for the very good reasons outlined in John Nolan's email.*
- *Even if PETRA fails to solve the murder of the Hodsons, there is every possibility that information directly relevant to the jurisdiction and function of the Director will be obtained along the way. Of course, if PETRA succeeds, we want to be on the podium.*
- *Although OPI cannot actively be involved in the investigation and retain its independent oversight role at the same time, the*

³⁰³⁰ Exhibit RC0866 Email from Ms Vanessa Twig to Mr John Nolan and others, 21 June 2007, IBAC.0020.0001.0061.

³⁰³¹ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10723, TRN.2019.12.09.01.P.

³⁰³² Exhibit RC0867 Email from Mr Greg Carroll to Mr Graham Ashton and others, 22 June 2007, IBAC.0020.0001.0058.

particular circumstances of this case allow a “split” of these two functions. A carefully constructed Joint Agency Agreement in relation to the “restarted” investigation to be conducted by PETRA will allow active participation by OPI in the investigation from now on, without compromising our capacity to assess the investigation to date in a very independent and critical way.

Legal has expressed a strategic preference re where OPI should be. Again, there is no vehemence in this view. It is merely one perspective on what is a difficult question. However, Legal recognises that the decision is an operational decision and also recognises the practical advantages of executing a joint agency agreement with PETRA to allow for cooperation in the renewed investigation of matters that are clearly of relevance to the Director.

2091. Mr Ashton took the view that it was an operational decision for him and the Director to make, and he accepted that he was certainly one of the people who was in favour of the joint agreement.³⁰³³
2092. It is submitted that there may have been additional, more personal factors that meant that the joint investigation in this case may have been less effective. There had obviously been a previous professional relationship between Mr Ashton and Mr Overland. The two had previously worked for the AFP in the late 1990s where Mr Ashton reported to Mr Overland.³⁰³⁴
2093. Mr Ashton gave evidence that when he was at the OPI, Mr Overland would sometimes ask him to remain after taskforce meetings and in effect, suggest that the OPI could improve its performance in particular roles, for example, putting in place telephone intercepts. In short he would be told by Mr Overland that the OPI needed to lift its weight more.³⁰³⁵

Conclusion of Operation Khadi

2094. On 23 November 2006, Mr Attrill delivered the final report for Operation Khadi to Mr Wilson.³⁰³⁶ It was forwarded to Mr Davson, who prepared an OPI report which was dated 27 March 2007. Aside from matters of form, the OPI report was a word for word copy of Mr Attrill’s ESD report.
2095. In the reports, Ms Gobbo is mentioned in excess of 100 times, and appears to be centrally or peripherally relevant to many of the significant matters which were the subject of the investigation, however, as is apparent, she did not make a statement and was not coercively examined.

2096. **On the evidence it is open to the Commissioner to find that:**
- a. **the removal of Ms Gobbo as a potential witness to the alleged improper conduct of police officers, which was the subject of the**

³⁰³³ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10725, TRN.2019.12.09.01.P.

³⁰³⁴ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, [24] GLA.0006.0001.0001 @.0003.

³⁰³⁵ Transcript of Chief Commissioner Graham Ashton, 11 December 2019, 11013, TRN.2019.12.11.01.P.

³⁰³⁶ Exhibit RC0826 Operation Khadi Final Report, 23 November 2006 VPL.0005.0147.0001.

joint investigation, meant that the investigation was naturally hindered

- b. had Ms Gobbo been called before the OPI and thoroughly examined concerning her relationship with members of Victoria Police, an opportunity would have arisen to expose the relationship that existed, whereby Ms Gobbo was, as Mr Wilson and Attrill were concerned about, providing confidential and perhaps privileged information to police about her clients**
- c. had that occurred, it is a matter that would likely have been of concern to the Director of Police Integrity, Mr Brouwer, and would likely have been the subject of further investigation**
- d. the conduct of all those who took steps to prevent Ms Gobbo's thorough examination concerning the serious allegations raised by the Khadi investigation contributed to this loss of opportunity.**

CHAPTER 13 – 2007 TO 2008 – OPERATION GOSFORD

Introduction

2097. In late 2006, Ms Gobbo started to receive threatening and abusive text messages accusing her of talking to police. These messages continued into 2007.³⁰³⁷
2098. Consequently, in February 2007, Victoria Police established Operation Gosford to investigate the threats made against Ms Gobbo. This Operation was undertaken by members of the Purana Taskforce, initially Messrs Rowe, Hayes and Flynn, and Ms Gobbo was instructed to contact Mr Flynn whenever she received a threat.³⁰³⁸
2099. Despite the threats, Ms Gobbo remained registered as a human source and continued to provide significant amounts of information to her handlers, which continued to be passed on to investigators.
2100. Further, the Purana Taskforce was now:
- dealing with Ms Gobbo as a victim
 - using information from Ms Gobbo as a human source
 - dealing with Ms Gobbo as a legal representative.
2101. Those charged with offences by members of the Purana Taskforce who came to be represented by Ms Gobbo were not informed as to the first two aspects of Ms Gobbo's relationship with the Purana Taskforce, which both independently gave rise to conflict of interest concerns.
2102. The potential for interference with the ordinary course of justice can be seen when considering the case of Mr El-Hage, dealt with in Chapter 17 of the Narrative Submissions:
- Mr El-Hage was a suspect in Operation Gosford, in particular following Ms Gobbo's car being set alight
 - Ms Gobbo dealt with Purana member, Mr Flynn, following the arson
 - Ms Gobbo had been providing information about Mr El-Hage as a human source before that time, and continued to provide information about him thereafter
 - after the arson, Mr El-Hage was arrested and charged with drug offences by Mr Flynn
 - Mr El-Hage had been charged on the basis of the evidence of Mr Cooper, whom Ms Gobbo had both informed on and provided legal

³⁰³⁷ Exhibit RC0730 Operation Gosford chronology, 23 February 2007, 2, VPL.0005.0122.0001 @.0002.

³⁰³⁸ Exhibit RC0730 Operation Gosford chronology, 27 February 2007, 2-3, VPL.0005.0122.0001 @.0002-.0003.

representation to, prior to his agreeing to assist and co-operate with the authorities

- Mr Flynn had dealt with Ms Gobbo as the legal representative of Mr Cooper and was aware of her role as a human source against both Mr Cooper and Mr El-Hage
- Ms Gobbo represented Mr El-Hage in the lead up to and upon his arrest by Mr Flynn
- Mr Flynn dealt with Ms Gobbo as the legal representative of Mr El-Hage following his arrest.

Initial Threats Received by Gobbo 2006

2103. In August 2006, Mr Carl Williams had vociferously complained that Ms Gobbo was conflicted and ought not be permitted to appear for Mr Thomas (see Chapter 10). From about that time, Ms Gobbo was telling her handlers that Ms Roberta Williams and her husband were accusing her of being a 'dog' and speaking to others of harming her.³⁰³⁹
2104. On 5 October 2006, Ms Gobbo was called and messaged directly by Ms Williams with threats made of a similar nature: 'My business ain't yours you fucken slut everyone knows what your about stop fucking talking about me you thing'. Ms Gobbo reported these to her handler, Mr Peter Smith, who in turn advised Mr Sandy White.³⁰⁴⁰
2105. Ms Gobbo called Mr Bateson twice on 9 October 2006 to discuss a possible threat she had received from Ms Williams.³⁰⁴¹ Mr Bateson had a discussion with Mr Heliotis about Ms Williams' threatening attitude to Ms Gobbo and was told that Ms Williams had made similar statements about Ms Gobbo to Mr Heliotis. Mr Bateson informed Mr Ryan about his discussion with Mr Heliotis.³⁰⁴²
2106. In December 2006, Ms Gobbo received a number of text messages and telephone calls from various Telstra payphones. The first of these was received on 7 December 2006, stating:

'UR FUCKEN DEAD YOU PRO

U FUCKEN BITCH YOU MOLE U FUCKEN PROSTITUTE UR DEAD'.³⁰⁴³

³⁰³⁹ Exhibit RC0281 ICR3838 (040), 6 August 2006, 384, VPL.2000.0003.1970; Exhibit RC0281 ICR3838 (041), 14 August 2006, 394, VPL.2000.0003.1980; Exhibit RC0281 ICR3838 (045), 14 September 2006, 424, VPL.2000.0003.2010; Exhibit RC0281 ICR3838 (046), 20 September 2006, 431, VPL.2000.0003.2017.

³⁰⁴⁰ Exhibit RC0281 ICR3838 (047), 5 October 2006, 451, VPL.2000.0003.2037.

³⁰⁴¹ Exhibit RC0272 Commander Stuart Bateson diary, 9 October 2006, 158-9, VPL.0005.0058.0233 @.0390-.0391.

³⁰⁴² Exhibit RC0269B Statement of Commander Stuart Bateson, 7 May 2019, 16 [100], VPL.0014.0027.0001 @.0016; Exhibit RC0272 Commander Stuart Bateson diary, 12 October 2006, 160-1, VPL.0005.0058.0233 @.0392-.0393.

³⁰⁴³ Exhibit RC0730 Operation Gosford chronology, 7 December 2006, 1, VPL.0005.0122.0001. Please note that the spelling is verbatim.

2107. Ms Gobbo reported these threats to Mr Green and said that it could be anyone associated with Solicitor 2 and Ms Williams.³⁰⁴⁴ Mr Green passed on this information to Mr Flynn.³⁰⁴⁵
2108. On 11 December 2006, Mr Ryan attended a briefing with Mr Overland. At this briefing, Mr Ryan discussed a number of matters relevant to Purana Taskforce, including threats made to Ms Gobbo.³⁰⁴⁶ Mr Overland asked Mr Ryan to contact the SDU to ask whether Ms Gobbo could be 'eased out' because of the threats made against her.³⁰⁴⁷ Mr Ryan spoke to Mr Sandy White who said that the process had already begun.³⁰⁴⁸
2109. Mr Ryan's view, which he conveyed to Mr Overland, was that it was inevitable that Ms Gobbo would be killed, and regardless of whether she was eased out, the problem would remain for the rest of her life.³⁰⁴⁹
2110. A further threatening message was received by Ms Gobbo on 13 December 2006; 'KEEP UR MOUTH SHUT OR DIE'.³⁰⁵⁰ A third message was received on 25 January, Ms Gobbo: 'U DOG U DIE – TRY ME'.³⁰⁵¹ This message was sent from an unknown Telstra phone number to Ms Gobbo and was reported to Mr O'Brien via Mr Green.³⁰⁵²
2111. On 23 February 2007, Ms Gobbo received the fourth threatening text; 'TALK AND DIE YOU SLUT – TRY ME!'³⁰⁵³

Commencement of Operation Gosford

2112. Given the threats Purana commenced an investigation called Operation Gosford on 27 February 2007.³⁰⁵⁴
2113. Mr Rowe was the primary investigator taking over from Mr Hayes, and he remained in this position until 30 June 2008.³⁰⁵⁵
2114. Because Ms Gobbo was directed to communicate with Mr Flynn, she would communicate any new threats to him, and he would in turn notify Mr Rowe.³⁰⁵⁶

³⁰⁴⁴ Exhibit RC0281 ICR3838 (056), 7 December 2007, 577, VPL.2000.0003.2163.

³⁰⁴⁵ Exhibit RC0281 ICR3838 (056), 7 December 2007, 577, VPL.2000.0003.2163.

³⁰⁴⁶ Exhibit RC0310B Statement of Mr Gavan Ryan, 13 June 2019, 10-11 [62], VPL.0014.0039.0001 @.0010-11.

³⁰⁴⁷ Exhibit RC0310B Statement of Mr Gavan Ryan, 13 June 2019, 11 [62], VPL.0014.0039.0001 @.0011; Transcript of Mr Gavan Ryan, 9 August 2019, 4263.

³⁰⁴⁸ Exhibit RC0310B Statement of Mr Gavan Ryan, 13 June 2019, 11 [63], VPL.0014.0039.0001 @.0011.

³⁰⁴⁹ Transcript of Mr Gavan Ryan, 9 August 2019, 4308.

³⁰⁵⁰ Exhibit RC0730 Operation Gosford chronology, 13 December 2006, 1, VPL.0005.0122.0001.

³⁰⁵¹ Exhibit RC0730 Operation Gosford chronology, 25 January 2007, 2, VPL.0005.0122.0001.

³⁰⁵² Exhibit RC0464B Statement of Jim O'Brien (long), 19 June 2019, 47 [243], VPL.0014.0040.0001 @.0047.

³⁰⁵³ Exhibit RC0730 Operation Gosford chronology, 23 February 2007, 2, VPL.0005.0122.0001 @.0002.

³⁰⁵⁴ Exhibit RC0730 Operation Gosford chronology, 27 February 2007, 2-3, VPL.0005.0122.0001 @.0002-.0003.

³⁰⁵⁵ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9245.

³⁰⁵⁶ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9246.

2115. Other Purana investigators who were part of Operation Gosford were then Detective Acting Sergeant Mark Hatt, Sergeant Jason Kelly, and Detective Senior Constable Angela Hantsis.³⁰⁵⁷
2116. Mr Hayes told the Commission that while he commenced assisting with investigating the threats against Ms Gobbo from 12 December 2006, it was perhaps not until 23 February 2007 he became aware that she was a source.³⁰⁵⁸
2117. On 28 February 2007, Mr Sandy White recorded in the SML that Ms Gobbo had told her handlers that she would assist in the prosecution of the person making the threats to kill by 'making statements and giving evidence.'³⁰⁵⁹ The SML also records that:

*SDU members not to be involved in case subsequent prosecution reveals HS contact with SDU members via reporting process of threats.*³⁰⁶⁰

2118. On 2 March 2007, Mr Hayes had a conversation with Mr Anderson regarding the process of reporting of threats to Ms Gobbo. Mr Hayes proposed to Mr Anderson that Ms Gobbo should call the Operation Gosford investigators directly rather than the SDU. Mr Anderson was to 'consider this and get back to [him].' Mr Hayes accepted on the basis of this that he must have known Ms Gobbo was a source by this date.³⁰⁶¹
2119. Throughout 2007, Ms Gobbo received more threats via text and phone calls:
- 2119.1. On 18 March 2007, Ms Gobbo received a text message stating, 'KEEP UR MOUTH SHUT SLUT. FUCKEN DOG'.³⁰⁶²
- 2119.2. On 20 March 2007, a further text message was received by Ms Gobbo that stated, 'U Fucken Police Informing Dog Shut UR Fucken Mouth'.³⁰⁶³
- 2119.3. On 28 March 2007, 'U Need to keep that informing dog mouth shut slut'.³⁰⁶⁴
- 2119.4. On 13 June 2007, 'Made any more false statements cunt. COOPER'.³⁰⁶⁵

[REDACTED]

³⁰⁵⁸ Exhibit RC0726 Statement of Detective Sergeant Craig Hayes, 25 July 2019, 9 [67], VPL.0014.0044.0001 @.0009; Transcript of Detective Sergeant Craig Hayes, 12 November 2019, 9070.

³⁰⁵⁹ Exhibit RC0284 SML, 28 February 2007, 91, VPL.0005.0099.0001 @.0091.

³⁰⁶⁰ Exhibit RC0284 SML, 28 February 2007, 91, VPL.0005.0099.0001 @.0091.

³⁰⁶¹ Exhibit RC0726 Statement of Detective Sergeant Craig Hayes, 25 July 2019, 8 [54], VPL.0014.0044.0001 @.0008.

³⁰⁶² Exhibit RC0730 Operation Gosford chronology, 18 March 2007, 3, VPL.0005.0122.0001 @.0003.

³⁰⁶³ Exhibit RC0730 Operation Gosford chronology, 20 March 2007, 4, VPL.0005.0122.0001 @.0004.

³⁰⁶⁴ Exhibit RC0730 Operation Gosford chronology, 28 March 2007, 6, VPL.0005.0122.0001 @.0006.

³⁰⁶⁵ Exhibit RC0730 Operation Gosford chronology, 13 June 2007, 10, VPL.0005.0122.0001 @.0010.

2119.5. On 25 July 2007, Ms Gobbo received three mobile phone calls, in two of which the caller remained silent, and then in the third an unknown male said, 'You talk you die, every dog has its day'.³⁰⁶⁶

2120. Mr Ryan's evidence was that by September 2007, he had received information on numerous occasions about the threats to Ms Gobbo's safety. He spoke to officers in the SDU on several occasions that they should deregister Ms Gobbo as a human source as it was inevitable that she would be murdered.³⁰⁶⁷

2121. On 15 October 2007, Ms Gobbo reported a threatening letter containing a sympathy card and two bullets. The front of the envelope was marked 'DOG NICOLA GOBBO' and written inside the card:

'JUST FOR YOU DOG 1 IN THE HEAD 2 IN THE HEART YOU WONT SEE YOU BIRTHDAY NEXT MONTH YOU KEEP TALKING TO THE PIGS'.³⁰⁶⁸

2122. Ms Gobbo told her then handler Mr Fox of these threats, and that she was 'scared' and 'shaking'.³⁰⁶⁹ Mr Fox recorded in the ICR that he had advised her not to touch the letter or contents at all, and to ring Mr Flynn straight away.³⁰⁷⁰

2123. On 5 November 2007 Ms Gobbo received a telephone call where an unknown male barked down the phone 'woof, woof, woof' and then hung up.³⁰⁷¹ A week later Mr Sandy White identified this unknown male as John Balakis and informed Ms Gobbo. Ms Gobbo confirmed that she had represented him previously, stating that she 'has been talking to him for months and he has been very good to her'. Ms Gobbo was therefore surprised when Mr Sandy White notified her that the call was from Mr Balakis.³⁰⁷²

2124. On 10 November 2007, Ms Gobbo received a further call from an unrecognised number but no message was left. When Ms Gobbo tried to call back, the recipient immediately hung up. Ms Gobbo made further follow up calls but never received a reply or answer.³⁰⁷³

2125. On 13 December 2007, Ms Gobbo received four text messages just after 1:00am, which she reported to Mr Peter Smith. The following is a direct repetition of those four text messages:

'Hey dog you were warned not to call or talk to the pigs but you being the dog call your boyfriend from purana now will get it dog one in the head and one in the heart';

³⁰⁶⁶ Exhibit RC0730 Operation Gosford chronology, 25 July 2007, 10, VPL.0005.0122.0001 @.0010.

³⁰⁶⁷ Exhibit RC0310B Statement of Mr Gavan Ryan, 13 June 2019, 15 [91], VPL.0014.0039.0001 @.0015.

³⁰⁶⁸ Exhibit RC0730 Operation Gosford chronology, 15 October 2007, 11, VPL.0005.0122.0001 @.0011.

³⁰⁶⁹ Exhibit RC0281 ICR3838 (105), 15 October 2007, 1296, VPL.2000.0003.2882.

³⁰⁷⁰ Exhibit RC0281 ICR3838 (105), 15 October 2007, 1296, VPL.2000.0003.2882.

³⁰⁷¹ Exhibit RC0730 Operation Gosford chronology, 5 November 2007, 15, VPL.0005.0122.0001 @.0015.

³⁰⁷² Exhibit RC0281 ICR3838 (110), 13 November 2007, 1395, VPL.2000.0003.2981.

³⁰⁷³ Exhibit RC0730 Operation Gosford chronology, 10 November 2007, 16, VPL.0005.0122.0001 @.0016.

'Look out the window dog so I can put a couple in you rat';

'You need to get raped first then pissed on then kicked in the fucken' dog head and then shot and splattered'; and

*'Its near for you dog shit the fuck up no pigs will help you just watch when you in good soon I mite be in your bedroom waiting or maybe get you in the car park as you in home. Anyway its near for you pig lover dog.'*³⁰⁷⁴

2126. On 25 December 2007, Ms Gobbo received a further three text messages:

'Merry Christmas you fucking slut. Yu will be dead soon you no good tart. I am going to strap on and Fuck you til your nose bleeds you cop loving dog. You make me sick you dog jac lover. Slow and painful that's how you will die.'

'Die you dog mole'

'Sleep tight mole hopefully it will be your last'.³⁰⁷⁵

2127. On 3 February 2008 Ms Gobbo reported that her mother had found a toy dog stuffed in her letter box. This was taken by Ms Gobbo to be a threatening message to her.³⁰⁷⁶

2128. Mr Peter Smith's view was that the threats via anonymous text did not elevate Ms Gobbo's risk into the extreme category, despite the fact that she was representing and socialising with some very dangerous criminals while providing information to Victoria Police about them.³⁰⁷⁷ That was so, he said because no one actually knew that Ms Gobbo was informing. The threats were never worded in a way as to be specific about her being a human source and providing information to police.³⁰⁷⁸

2129. Mr Peter Smith held this view despite various threats describing Ms Gobbo as a 'cop lover' and 'dog', alluding to her connection to, or relationships with, those within Victoria Police.

2130. Nevertheless, Mr Peter Smith accepted that the risks to Ms Gobbo were generally high as soon as she began speaking with the SDU. He agreed with Mr Ryan, that if Ms Gobbo's role as an informer had been revealed, it was likely that she would have been killed.³⁰⁷⁹

Change of Registration Number

2131. Ms Gobbo's registration number was changed from 21803838 to 11792958 on 24 January 2008. Superintendent Tony Biggin told the Commission this was because too many police officers (especially in Purana) were becoming aware of the identity of '3838'. He approved this change of number on 6

³⁰⁷⁴ Exhibit RC0730 Operation Gosford chronology, 13 December 2007, 18, VPL.0005.0122.0001 @.0018; Exhibit RC0281 ICR3838 (115), 13 December 2007, 1523, VPL.2000.0003.3109.

³⁰⁷⁵ Exhibit RC0730 Operation Gosford chronology, 25 December 2007, 19-20, VPL.0005.0122.0001 @.0019-.0020.

³⁰⁷⁶ Exhibit RC0730 Operation Gosford chronology, 3 February 2008, 20, VPL.0005.0122.0001 @.0020.

³⁰⁷⁷ Transcript of Mr Peter Smith, 11 September 2019, 6056.

³⁰⁷⁸ Transcript of Mr Peter Smith, 11 September 2019, 6056-7.

³⁰⁷⁹ Transcript of Mr Peter Smith, 11 September 2019, 6057-8.

SDU at this time, including with Mr Biggin and Detective Inspector Glow, about not disseminating the highly valuable information they were receiving from Ms Gobbo because of the likelihood of compromise.³⁰⁹¹

Bali Statement - 2009

2138. Later, in May 2009, while making a statement to Detective Inspector Steve Waddell and Detective Senior Sergeant Ronald Iddles of the Briars Taskforce in Bali Ms Gobbo reported receiving further threats via SMS. These included:

'Hey slut. You are dead meet. You thing youre boyfriend can help you but he cannt. We now everything and you will get what you deserved a long time a go. Shot in the head bich. Slut we now everything and what you have been doing.'

'Hello mole – Cant waite to see you dead on front paige of the papers. Your family will be proud of you then. Especially your dad. You disgrace.'

'They can make promise but they cannt protect you so you meet in otels hay. We will get you in the end you now that. We now everything.'

'We want your mother to see the news when you dye slut then she will be next. We now your sister adres and were she works.'

'You talking with cop you will get this and we cannt wate.'

'You disgrace my family and my friend and we now ever thing you done so its by by cunt. Stop talking with cop and we make sure you life better. No court and you life ok but if you do this we will kill you slut.'

'You want to tell lies about my friends, how many lies can you say when we have your mother and sister with us. Dead women walking'.³⁰⁹²

Threats Received in 2014

2139. In his evidence to the Commission, Mr Martin discussed a further incident that he was assigned to investigate in 2014 whereby Ms Gobbo had received a letter and bullets in her letterbox. Mr Martin stated that at the time of this investigation, he was only informed that she had been 'assisting police as a witness' and nothing further relating to her informing specifically.³⁰⁹³

³⁰⁹¹ Exhibit RC0284 SML, 17 April 2008, 29, VPL.2000.0001.9236 @.9264.

³⁰⁹² Exhibit RC1009, Operation Petra Witness Contact Report: Witness F, 26 May 2009, 2, VPL.0100.0237.2865 @.2866. Please note that the spelling is verbatim.

³⁰⁹³ Transcript of Mr Steven Martin, 1 May 2019, 1212-1215.

Adequacy of Risk Assessments

2140. Only two formal written risk assessments were prepared in the management of Ms Gobbo; the first as part of the registration process and the second in April 2006.³⁰⁹⁴
2141. On a monthly basis Mr Sandy White, or a stand-in controller, would prepare a 'Monthly Source Review' which was a brief entry within the SML that contained a high level summary of matters relevant to the management of Ms Gobbo over the preceding month, although often the reviews were considerably more than a month apart. By May 2006, the Monthly Source Review had become more structured and contained 4 headings: 'Update', 'Risk', 'Value' and 'Recommendation'. Aside from the recommendation which was generally to the effect that Ms Gobbo's management continued to be essential, there was no formal risk mitigation process established.

2142. On the evidence, it is open to the Commissioner to find that the circumstances in which Ms Gobbo was recruited, handled and managed by Victoria Police:

2142.1. resulted in her being placed in grave danger of being murdered or seriously injured

2142.2. the approach of the SDU to risk assessment and risk mitigation as evidenced by the perfunctory entries in the Monthly Source Reviews was lamentably inadequate.

Senior Command's Knowledge of Threats

2143. Mr Overland told the Commission he had been speaking to Ms Gobbo's handlers since May 2006 in relation to working on an 'exit strategy' for Ms Gobbo, but that it 'was a matter for the SDU to progress'.³⁰⁹⁵ While he was concerned about the risks to Ms Gobbo's safety, he did not direct Purana or SDU officers to take any further steps to manage these safety risks e.g. deregistering her as a source/'ending the relationship' or enhancing the security arrangements that were in place at the time.
2144. Ms Nixon told the Commission she vaguely remembered the time Ms Gobbo's car was set on fire. She said whilst she may have received a briefing about Operation Gosford she had no recollection of it.³⁰⁹⁶
2145. Mr Overland told the Commission that as Deputy Commissioner he was aware of the various threats made against Ms Gobbo from around mid-2006, including the car fire in April 2008. He did not tell Chief Commissioner Nixon about them because he felt it was an 'operational matter' being dealt

³⁰⁹⁴ Exhibit RC0285B Risk Assessment relating to Ms Nicola Gobbo, November 2005, VPL.2000.0001.9395; Exhibit RC0286B Risk Assessment relating to Ms Nicola Gobbo, April 2006, VPL.2000.0001.9432, VPL.2000.0003.8295, VPL.0012.0002.2443, VPL.0005.0017.0002.

³⁰⁹⁵ Transcript of Mr Simon Overland, 19 December 2019, 11714, 11738, 11795, TRN.2019.12.19.01.P; Transcript of Mr Simon Overland, 21 January 2020, 12038-12040, TRN.2020.01.21.01.P; Transcript of Mr Simon Overland, 22 January 2020, 12110, TRN.2020.01.22.01.P.

³⁰⁹⁶ Transcript of Ms Christine Nixon, 18 December 2019, 11649-11650, RC_MPI_18Dec19_provisional.

with by himself and others below him and was not something she needed to be briefed on.³⁰⁹⁷

2146. The risks posed by the use of human sources are sadly illustrated by the 2004 murders of Mr Terrence Hodson and his wife, Ms Christine Hodson. The reason for their murders was understood to relate to knowledge of Mr Hodson's role as a human source. These murders had significant ramifications for Victoria Police and accordingly Ms Nixon had been briefed immediately.³⁰⁹⁸
2147. Ms Gobbo had been the subject of serious threats over a considerable period of time. The ramifications to Victoria Police if she was murdered would have been catastrophic. Ms Gobbo's use as a human source was not simply an 'operational matter' which should have been left in the hands of the SDU to progress.

³⁰⁹⁷ Transcript of Mr Simon Overland, 16 December 2019, 11796-8, RC_MPL_18Dec19_provisional.

³⁰⁹⁸ Exhibit RC1327 Mr Dannye Moloney diary, 17 May 2004, 3, VPL.0005.0169.0001 @.0003.

CHAPTER 14 - 2007: THE ESTABLISHMENT OF TASKFORCES BRIARS AND PETRA

Briars Taskforce

Background

2148. On 4 June 2003, Shane Chartres-Abbott was shot dead as he was leaving his home in Reservoir to travel to court. He was facing trial for charges of rape and causing serious injury, which included biting off the complainant's tongue. Mr Chartres-Abbott had been labelled in the media as the 'vampire' gigolo.
2149. On 3 November 2005, Mr Gregory and Evangelos Goussis were convicted after trial, of the murder of Lewis Caine. Following that conviction, they were both to face trial, along with Mr Gregory's relative, for the murder of Lewis Moran which had occurred on 31 March 2004.
2150. Whilst in custody Mr Gregory began speaking to police intermittently. In March 2006, he requested police attendance again. When Messrs O'Brien and Bateson visited, he indicated he wanted to co-operate and requested to deal with Detective Sergeant Peter Trichias. When he was asked whether he wanted to discuss only Lewis Moran he responded:
- Well, that depends on Mr Trichias. I mean, I'm not gonna do it for nothing. I'm not just gonna open the shop for nothing. I mean, me, I want to see a light at the end of the tunnel. At the moment I see no light. As you know I got found guilty of the Lewis Caine affair and, um, I'm pretty...*
2151. During that conversation Mr Gregory spoke with police about his receiving a minimum sentence, the sentence received by another gangland witness after multiple murders, being housed in custody [REDACTED], and matters related to his family.³⁰⁹⁹
2152. Between 17 and 21 March 2006, Mr Gregory made a statement in relation to the Lewis Moran murder. As well as implicating his relative and Mr Goussis, Mr Gregory also implicated Mr Carl Williams and Mr Tony Mokbel.
2153. On 3 May 2006, Mr Gregory pleaded guilty to the murder of Lewis Moran and gave an undertaking to give evidence for the prosecution. He was sentenced to 24 years' imprisonment for the murder of Lewis Caine and life imprisonment for the murder of Lewis Moran. In relation to both murders, he was sentenced to a minimum non-parole period of 19 years.³¹⁰⁰
2154. At around that time, Mr Gregory told Detectives of another matter in which he might assist. Later that month, when Purana Detectives were visiting, Mr Gregory revealed the word 'vampire' written on his hand.³¹⁰¹ Prior to this time there was no known connection between Mr Gregory and the murder of

³⁰⁹⁹ Transcript of conversation between O'Brien, Bateson & Gregory, 15 March 2006.

³¹⁰⁰ *R v Gregory* (Sentence) [2006] VSC 169.

³¹⁰¹ Transcript of Detective Senior Sergeant Peter Trichias, 25 June 2019, 2899-2900, TRN.2019.06.24.01.

Chartres-Abbott. In meetings that followed, Mr Gregory told police that he was the shooter of Mr Chartres-Abbott and he implicated others, including Messrs Goussis, Warren Shea and Mark Perry. Mr Perry was the boyfriend of the woman whom it was alleged Mr Chartres-Abbott had raped and seriously injured.

2155. Mr Trichias commenced taking a statement from Mr Gregory concerning the Chartres-Abbott murder in July 2006 and that statement was eventually signed on 20 November 2006. On 11 October 2007 Mr Gregory pleaded guilty to the murder of Mr Chartres-Abbott. He agreed to give evidence for the prosecution.³¹⁰² The sentence for the murder of Mr Chartres-Abbott involved no increase in the minimum non-parole period to be served by Mr Gregory.
2156. By early 2007, Mr Gregory had made further statements, which also implicated one former and one then-serving police member of Victoria Police as being involved in the murder. He alleged that he contacted former member, Mr David Waters, who in turn contacted the serving member, Detective Sergeant Peter Lalor, to provide the address of Mr Chartres-Abbott. Mr Gregory also alleged that Mr Lalor had executed a warrant upon him on the day of the murder in order to provide him with an alibi.³¹⁰³ Mr Gregory alleged that both Messrs Waters and Lalor knew of his intention to kill Mr Chartres-Abbott when they allegedly provided the assistance.³¹⁰⁴
2157. Mr Gregory ultimately made six statements concerning the murder of Lewis Moran,³¹⁰⁵ and six statements concerning the Chartres-Abbott investigation, between 2006 and 2012³¹⁰⁶. Mr Gregory was a career criminal who Mr Trichias agreed could be described as manipulative.³¹⁰⁷ It would have been clear to investigators from the outset that if there was to be a successful prosecution based upon his evidence, it would require strong corroboration.

Gobbo Connection to Gregory

2158. Messrs Waters and Gregory regularly attended the Canada Hotel in Swanston Street, Carlton and it was there that the alleged discussions between Messrs Gregory and Waters concerning the Chartres-Abbott murder took place. Ms Gobbo had initially met Mr Gregory in about 1997, when as a solicitor, she acted for an associate of his, Mr Peter Pilarinos. Shortly after becoming a barrister she commenced a relationship with then member of Victoria Police Stephen Campbell and through him, she met Mr Waters.³¹⁰⁸ Through her association with Messrs Campbell and Waters, Ms Gobbo had attended the Canada Hotel on a number of occasions, and she

³¹⁰² Exhibit RC1658 Confidential affidavit of Mr Stephen Waddell (unsigned), 24 June 2009, 5 [16]-[17], VPL.0098.0014.0014 @.0018.

³¹⁰³ Exhibit RC0937 Briars Taskforce file maintained by Assistant Commissioner Cornelius, Media Strategy, May 2007, 188-204, VPL.0100.0058.0798 @.0985-.1001.

³¹⁰⁴ Exhibit RC1799 Transcript of conversation between Mr James (Jim) O'Brien, Detective Senior Sergeant Peter Trichias, Mr Gregory, 16 February 2007, 42, VPL.0005.0139.0078 @.0119; Exhibit RC1799 Transcript of conversation between Mr James (Jim) O'Brien, Detective Senior Sergeant Peter Trichias, Mr Gregory, 16 February 2007, 46, VPL.0005.0139.0078 @.0123. Exhibit RC0928 OPP Briefing – Taskforce Briars Evidence of Gregory, 1- 10, VPL.0100.0013.2358 @.2358-.2367.

³¹⁰⁵ Transcript of Detective Senior Sergeant Peter Trichias, 25 June 2019, 2897, TRN.2019.06.24.01.

³¹⁰⁶ Exhibit RC0928 OPP Briefing – Taskforce Briars Evidence of Gregory, VPL.0100.0013.2358. Note that this document highlights the various corroboration and contradictions in Mr Gregory's statements. This document refers to five statements. A further statement was taken from Mr Gregory in 2012.

³¹⁰⁷ Transcript of Detective Senior Sergeant Peter Trichias, 25 June 2019, 2895, TRN.2019.06.24.01.

³¹⁰⁸ Referred to at Chapter 4 of the Narrative Submissions.

had seen Messrs Waters and Campbell together with Mr Gregory on at least one occasion.³¹⁰⁹

2159. On 5 April 2006, Ms Gobbo reported to the SDU that she had heard from a Crown Prosecutor that Mr Gregory had 'rolled'.³¹¹⁰
2160. On 27 April 2006, Ms Gobbo noted an article in The Age about an individual 'rolling' whom she believed to be Mr Gregory.³¹¹¹
2161. During 2006, Mr Gregory came to be housed in custody in the same unit as Messrs Cooper and Thomas, both with significant criminal histories and gangland associations. Both were advised by Ms Gobbo and had determined to become witnesses for the prosecution. Ms Gobbo continued to have frequent contact with both at the prison and by telephone.
2162. Each of these three men went on to make numerous statements to the police and became significant witnesses in multiple prosecutions. It is apparent that the defence in those cases were not told of their being housed together and the potential for the sharing of information, let alone Ms Gobbo's association and role with each of them.
2163. Mr Trichias, an experienced Detective, agreed with the proposition that the criminal underworld in Melbourne was a very small community. He said that looking back it was a concern that these witnesses, who were all giving evidence in relation to some of the most significant criminal trials in the State's history, were housed together.³¹¹²
2164. In 2014 during the trial of Messrs Goussis, Shea and Perry for the Chartres-Abbott murder, Mr Gregory claimed that the reason he spoke to police about the Chartres-Abbott murder in the first place was that Ms Gobbo had visited him and indicated Mr Goussis might implicate him.³¹¹³
2165. On 4 May 2006 Ms Gobbo told the SDU that Mr Cooper was being influenced by Mr Gregory in relation to the intentions of the police.³¹¹⁴
2166. On 18 June 2006 she told the SDU that Mr Gregory was conveying information to Mr Milad Mokbel about Mr Cooper.³¹¹⁵
2167. In July 2006, Mr Trichias had attended on Mr Gregory to ask him questions about a call to his mobile phone from a phone box in Pascoe Vale on the Saturday after the Lewis Moran murder, being 3 April 2004. This led to the taking of a second statement from Mr Gregory, ultimately signed on 29 November 2006. The statement involved a change to Mr Gregory's evidence as to the arrangements related to payment for the murder. He had previously indicated phone contact from Mr Carl Williams, but now said that the phone call from the phone box was from Mr Tony Mokbel. It later turned

³¹⁰⁹ Exhibit RC0260 Unsigned statement of Ms Nicola Gobbo, 21 May 2009, VPL.0002.0002.0120.

³¹¹⁰ Exhibit RC0281 ICR3838 (025), 5 April 2006, 224, VPL.2000.0003.1810.

³¹¹¹ Exhibit RC0281 ICR3838 (030), 27 April 2006, 273, VPL.2000.0003.1859.

³¹¹² Transcript of Detective Senior Sergeant Peter Trichias, 25 June 2019, 2902-03, TRN.2019.06.24.01.

³¹¹³ Exhibit RC1788 Issue Coversheet, 25 June 2014, attaching Transcript of trial of Mr Warran Shea, Mr Evangelos Goussis and Mr Mark Perry, 26 May 2014 and 18 June 2014, VGSO.2000.0021.0166.

³¹¹⁴ Exhibit RC0281 ICR3838 (031), 4 May 2006, 273, VPL.2000.0003.1859.

³¹¹⁵ Exhibit RC0281 ICR3838 (035), 18 June 2006, 334, VPL.2000.0003.1920.

out that Mr Tony Mokbel was being recorded by Federal surveillance at a location which meant he could not have made that telephone call.³¹¹⁶

2168. On 11 August 2006, Ms Gobbo told the SDU that Mr Tony Mokbel was not in Queensland on the day of the Lewis Moran murder, although his bail had been varied for that purpose. She indicated that checks on his phone records would indicate he was in Melbourne. Ms Gobbo said she had telephoned him, and he told her he was in Brunswick that day, and that he had met with Mr Cooper.³¹¹⁷
2169. On 13 August 2006, Ms Gobbo told the SDU that she had seen Mr Gregory at the prison in relation to her pending trial but did not provide details.³¹¹⁸ Her court book recording of that visit contains details including:³¹¹⁹
- that Mr Gregory received a non-parole period of 19 years and had 17 years remaining before he was eligible for parole
 - a question of whether Tony Mokbel was in Queensland or not at the time of Lewis Moran's murder (31 March 2004)
 - the names of then current solicitors engaged by Mr Gregory and his relative
 - the name of Purana investigators Mr Gregory was dealing with; Detectives Trichias and Grant Kelly
 - that Mr Gregory had been given a tape by Rowntree which he had given to Victor Peirce
 - that Detective Sergeant Jim O'Brien had been involved in the 'Walsh Street' investigation
 - upcoming dates, which appear to relate to Mr Gregory's relative
 - that Mr Goussis was appealing against conviction and sentence.
2170. Ms Gobbo's court book records that she was appearing in a trial for Ron Crawford between 14 August and 28 September 2006.³¹²⁰ On 28 September 2006, Mr Crawford was acquitted of the murder of his wife. He had been accused of hiring a hitman, with links to the Pettingill family, to kill her.³¹²¹ Victor Peirce was the son of Kath Pettingill.
2171. On 25 September 2006, Ms Gobbo reported that when her current trial finished, she was going to [REDACTED] to see Mr Gregory, [REDACTED], and Messrs Cooper and Thomas.³¹²²
2172. On 4 October 2006, Mr Trichias was contacted by a Corrections Victoria officer and informed that Mr Gregory wanted to cancel a meeting with him scheduled for the following day as Ms Gobbo was going to the prison to

³¹¹⁶ Transcript of Detective Senior Sergeant Peter Trichias, 25 June 2019, 2898, TRN.2019.06.24.01.

³¹¹⁷ Exhibit RC0281 ICR3838 (040), 11 August 2006, 390, VPL.2000.0003.1976.

³¹¹⁸ Exhibit RC0281 ICR3838 (041), 13 August 2006, 392, VPL.2000.0003.1978.

³¹¹⁹ Exhibit RC0255 Ms Nicola Gobbo court book, 13 August 2006, 53, MIN.0014.0784 @.0186.

³¹²⁰ Exhibit RC1568 Ms Nicola Gobbo fee book 01, 8 August 2008, 99, MIN.5000.7000.0001 @.0099.

³¹²¹ Elissa Hunt and Mark Butler, 'Jury Rejects Hitman Tale', *Herald Sun* (online, 29 September 2006) <<https://www.heraldsun.com.au/news/victoria/jury-rejects-hitman-tale/news-story/d866b983af22f7fbfa0bdd85d2229764?sv=fad3216ee7c8688462153a81f3f0a074>>.

³¹²² Exhibit RC00281 RC0281 (045) new, 25 September 2006, 10, RCMPI.2001.0002.0010.

meet with [REDACTED], and Mr Gregory wished to attend as a support person.³¹²³

2173. On 5 October 2006, Mr Trichias was again contacted by Corrections Victoria who informed him that Ms Gobbo had attended the prison to meet with Messrs Thomas and Cooper, but was not aware that [REDACTED] wanted to meet her, and as she was not on the approved list, she did not meet with him.³¹²⁴ Ms Gobbo reported that Mr Thomas told her that Mr Cooper was organising for her to see Mr Gregory [REDACTED], somehow without her knowledge.³¹²⁵
2174. On 20 November 2006, Mr Trichias and his colleagues met with Mr Gregory and he signed his first statement relating to the Chartres-Abbott murder. During the visit Mr Gregory told police that Ms Gobbo had spoken to Mr Tony Mokbel on the night of the murder of Lewis Moran, and that there were notes in her diary which they should obtain by subpoena or search warrant. The information was conveyed to Mr O'Brien who indicated he would arrange for a search warrant to be executed.³¹²⁶
2175. On 26 November 2006, Ms Gobbo was told by her SDU handler of a request from Mr Dale Flynn regarding Mr Tony Mokbel on 31 March 2004. During the conversation Ms Gobbo said:
- she would check her records and said she believed they wanted to show if Tony Mokbel was in Melbourne at the time
 - Milad Mokbel had rung and told her Tony Mokbel was in a coffee shop, but she could not recall if she saw him on that date or not
 - Tony Mokbel must have known or been involved in Lewis Moran's murder.
2176. During a later conversation with the SDU handler that same day Ms Gobbo said:
- she had been involved in a 'secret' plea in the County Court that afternoon for Person 12, and that she had not seen Tony Mokbel that day
 - during this period Tony Mokbel should have been in Queensland, but he was in Melbourne and she recalled having phone calls with him.³¹²⁷
2177. On 28 November 2006, Ms Gobbo reported that her notes for 31 March 2004 did not reflect contact with Mr Tony Mokbel that day.³¹²⁸

³¹²³ Exhibit RC00239 Statement of Detective Senior Sergeant Peter Trichias, 17 June 2019, 1 [7], VPL.0014.0007.0009.

³¹²⁴ Exhibit RC00239 Statement of Detective Senior Sergeant Peter Trichias, 17 June 2019, 1 [8], VPL.0014.0007.0009.

³¹²⁵ Exhibit RC0281 ICR3838 (047), 5 October 2006, 442, VPL.2000.0003.2037.

³¹²⁶ Exhibit RC00239 Statement of Detective Senior Sergeant Peter Trichias, 17 June 2019, 1 [7], VPL.0014.0007.0009; Exhibit RC1553 Detective Senior Sergeant Peter Trichias, 2 November 2006, 5, VPL.0005.0131.0008 @.0012.

³¹²⁷ Exhibit RC0281 ICR3838 (054), 26 November 2006, 565, VPL.2000.0003.2151.

³¹²⁸ Exhibit RC0281 ICR3838 (054), 28 November 2006, 565, VPL.2000.0003.2153.

2178. On 29 November 2006, Ms Gobbo reported that she had researched her notes further. She said:³¹²⁹
- Mr Trichias of Purana spoke to Mr Gregory regarding Milad and Tony Mokbel talking to Ms Gobbo on the night of 31 March 2004
 - Mr Gregory must have said that Tony Mokbel was in Melbourne at the time of Lewis Moran's murder
 - She believed she had spoken to 'Milad/Tony/Horty' via the phone on the evening of the murder.
2179. On 15 January 2007, Ms Gobbo reported that Mr Cooper spoke with Messrs Thomas and Gregory in custody.³¹³⁰
2180. On 17 January 2007, Mr Gregory told Mr Trichias that Mr Thomas was having problems and had sacked Ms Gobbo and was receiving legal representation from Mr Jim Valos.³¹³¹
2181. On 18 January 2007, Mr Trichias discussed with Mr O'Brien telephone intercepts on Mr Tony Mokbel's phone from 3 April 2004, in which he spoke to Ms Gobbo. This was the day on which Mr Gregory asserted money had been dropped off in payment for the murder of Lewis Moran.³¹³² Mr O'Brien then spoke to Mr Green, who was Ms Gobbo's handler at the time.³¹³³ Ms Gobbo was then asked about her movements on 3 April 2004. She told Mr Green that:³¹³⁴
- in April 2004 she was living at an apartment in Port Melbourne and Tony Mokbel was living in the next block up the street. Their underground carparks joined and their allotted carparks were only four spaces apart
 - she saw Tony Mokbel nearly every day and had no special notes for that day
 - Tony Mokbel had a bail variation to go to Queensland, but had stayed in Melbourne
 - on the night of the murder a journalist had called asking 'if it was [Tony Mokbel]' who had been killed. Ms Gobbo said she called Tony Mokbel and his phone was off, then she had called Milad Mokbel who said he'd just seen him at the coffee shop and he was okay
 - both Messrs Gregory and Cooper had made statements to say Tony Mokbel was in Melbourne at the time.
2182. Mr Green then conveyed this information to Mr O'Brien,³¹³⁵ who in turn told Mr Trichias that Ms Gobbo had said she had no recollection of her conversation with Mr Tony Mokbel that day and that this was not unusual as

³¹²⁹ Exhibit RC0281 ICR3838 (054), 29 November 2006, 565, VPL.2000.0003.2154.

³¹³⁰ Exhibit RC0281 ICR3838 (062), 15 January 2007, 604, VPL.2000.0003.2190.

³¹³¹ Exhibit RC00239 Statement of Detective Senior Sergeant Peter Trichias, 17 June 2019, 2 [12], VPL.0014.0007.0009 @.0010.

³¹³² Exhibit RC00239 Statement of Detective Senior Sergeant Peter Trichias, 17 June 2019, 2 [13], VPL.0014.0007.0009 @.0010.

³¹³³ Exhibit RC0567 Officer Green diary, 18 January 2007, 267, RCMP.0086.0001.0001 @.5143.

³¹³⁴ Exhibit RC0281 ICR3838 (62), 18 January 2007, 607, VPL.2000.0003.2193.

³¹³⁵ Exhibit RC0567 Officer Green diary, 18 January 2007, 269, RCMP.0086.0001.0001 @.5144.

he was living in close proximity at the time.³¹³⁶ Mr O'Brien did not have any record of this matter in his diary.

2183. On 15 March 2007, Ms Gobbo told her handler that police should be careful having Mr Cooper in custody with Messrs Thomas and Gregory. She referred to messages being passed from Mr Gregory to Mr Milad Mokbel about Mr Cooper's statements relating to Mr Milad Mokbel's potential involvement in the murder of Mario Condello.³¹³⁷
2184. On 19 March 2007, Ms Gobbo reported that Mr Cooper was sharing an area in the prison with Mr Gregory [REDACTED], and that Mr Thomas had told her that Mr Gregory had said something to Mr Cooper causing Mr Cooper not to want to talk with Ms Gobbo.³¹³⁸
2185. On 1 April 2007, Ms Gobbo told the SDU of a meeting with Mr Waters and Inspector Bob Hodgkin at the South Melbourne Anglers Club. According to Ms Gobbo:³¹³⁹
- during the meeting Mr Waters expressed concerned about what Mr Gregory had been saying
 - she suspected Mr Gregory must have something over Mr Waters
 - Mr Waters said whatever was being said would be 'all crap' unless Mr Gregory was corroborated
 - Mr Waters did not believe Mr Goussis killed Lewis Moran
 - Mr Waters stated that Mr Gregory killed the vampire gigolo for a fee, which would all come out in the Goussis trial.
2186. On 4 April 2007, Ms Gobbo told the SDU that she and Mr Milad Mokbel believed that Mr Gregory killed Lewis Moran and made a false statement, that Mr Goussis was not involved. The SDU noted that Purana had previously been advised of that information.³¹⁴⁰
2187. On 6 April 2007, Ms Gobbo spoke to the SDU about Stephen Shirrefs, counsel for Mr Goussis. She referred to a discussion she had had with Mr Shirrefs about Mr Goussis's case, including the following matters: that CCR analysis revealed that Mr Goussis could not have been in the suburb at the time of the murder; that Mr Tony Mokbel did not have anything to do with the murder; that Mr Gregory [REDACTED] were the shooters of Lewis Moran; and that Mr Gregory was the offender for the vampire murder. This intelligence was passed verbally to Mr O'Brien.³¹⁴¹

Establishment of the Briars Taskforce

2188. In late January 2007 Mr Overland gave Mr Cornelius, as Assistant Commissioner of ESD, a preliminary verbal briefing about the possibility that Victoria Police might establish a taskforce to investigate the murder of Mr

³¹³⁶ Exhibit RC00239 Statement of Detective Senior Sergeant Peter Trichias, 17 June 2019, 2 [13], VPL.0014.0007.0009 @.0010

³¹³⁷ Exhibit RC0281 ICR3838 (070), 15 March 2007, 709, VPL.2000.0003.2195.

³¹³⁸ Exhibit RC0281 ICR3838 (071), 19 March 2007, 717, VPL.2000.0003.2303.

³¹³⁹ Exhibit RC0281 ICR3838 (073), 4 April 2007, 758-9, VPL.2000.0003.2344-5.

³¹⁴⁰ Exhibit RC0281 ICR3838 (073), 4 April 2007, 767, VPL.2000.0003.2353.

³¹⁴¹ Exhibit RC0281 ICR3838 (073), 6 April 2007, 769-770, VPL.2000.0003.2355-6.

Chartres-Abbott, given information from Mr Gregory alleging police corruption.³¹⁴² The following day Mr Overland briefed Chief Commissioner Christine Nixon.³¹⁴³

2189. In February 2007 there were further discussions and steps were taken towards establishing the taskforce.
2190. On 9 February 2007 Messrs Overland and Cornelius agreed to establish a taskforce and that Superintendent Rod Wilson would head it.³¹⁴⁴
2191. On 12 February 2007, Mr Overland met with Messrs O'Brien and Trichias who, prior to the information of police involvement in the murder, had been conducting the investigation under the name of Operation Clonk within the Purana Taskforce.³¹⁴⁵ It is submitted that it is likely that Mr Overland told them of the new taskforce which was to be established, and discussed how the witness, Mr Gregory, was to be managed into the future.
2192. Mr Overland met with Mr Wilson on 13 February 2007 and provided him with an overview of the homicide investigation to that time, and the need to establish a new taskforce. It was agreed that Detective Inspector Stephen Waddell would be involved. Mr Overland recorded in a running sheet prepared sometime later, that he had stressed the need for security to Mr Wilson.³¹⁴⁶
2193. It is apparent that this running sheet was prepared for the purposes of the OPI's Operation Diana.³¹⁴⁷ Mr Cornelius prepared a similar document.³¹⁴⁸ Mr Overland was asked how this running sheet was prepared. He said he assumed he looked at contemporaneous documents such as diaries and updates which he had at the time. Mr Overland was reminded of his evidence that he did not keep diaries. He indicated he was referring to an electronic diary.³¹⁴⁹ Subsequently a number of diaries kept by Mr Overland between 2003 and 2008 were located, although none covering the period from late 2006 to November 2007.
2194. On 14 February 2007, Mr Overland met with Messrs Wilson, Waddell, O'Brien and Trichias and Mr O'Brien provided a briefing about the investigation to date, including the allegations of corruption against former and then serving members of police. It was determined that Detective

³¹⁴² Exhibit RC898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 4 [26], VPL.0014.0057.0001 @.0004; Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 1, IBAC.0008.0001.0043 @.0001.

³¹⁴³ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 1, IBAC.0008.0001.0043 @.0001.

³¹⁴⁴ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 1, IBAC.0008.0001.0043 @.0001; Exhibit RC0874, Assistant Commissioner Luke Cornelius Chronology of Briars contacts with Messrs Linnell and Ashby, 3 October 2007, IBAC.0008.0001.0027.

³¹⁴⁵ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 1, IBAC.0008.0001.0043 @.0001.

³¹⁴⁶ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 1-2, IBAC.0008.0001.0043 @.0001-0002.

³¹⁴⁷ Operation Diana was commenced by the O in May 2007 to investigate the leaking of confidential information by Noel Ashby and others: see Exhibit RC1822 Office of Police Integ Own Motion determination for Operation Diana, 30 May 2007, RCMP1.0126.0001.0001.

³¹⁴⁸ Exhibit RC0874, Assistant Commissioner Luke Cornelius Chronology of Briars contacts with Messrs Linnell and Ashby, 3 October 2007, IBAC.0008.0001.0027.

³¹⁴⁹ Transcript of Mr Simon Overland, 19 December 2019, 11748, TRN.2019.12.19.01.

Senior Sergeant Ron Iddles would be asked to join the Briars investigation team.³¹⁵⁰

2195. On 20 February 2007, Mr Graham Ashton, the Assistant Director of the OPI, recorded in his diary a meeting at 3:00pm with Mr Cornelius. Mr Ashton noted that the meeting related to ESD/OPI directions and that general issues were discussed.³¹⁵¹ Given the course of events and what followed, it is submitted that it is likely that around this time there were discussions between the OPI and Victoria Police involving the plan of establishing a joint investigation into the Chartres- Abbott murder.
2196. Mr Nolan, the Senior Investigator at the OPI, recorded in his diary that another meeting also occurred at 3:00pm on 20 February 2007 involving Messrs Ashton, Overland, Cornelius and Dannye Moloney, the latter being the Commander of the Intelligence and Covert Support Department.³¹⁵²
2197. The following day, Mr Ashton noted in his diary that he spoke with Mr Nolan about the meeting that had occurred the previous day. Mr Nolan's diary entry includes '*Moloney*', and '*CCP's instruction, agrees in principle – legal and lawyer*'.³¹⁵³
2198. At the end of the day on 21 February 2007, Mr Ashton ceased keeping a contemporaneous handwritten diary until 2 July 2008. Upon resuming his diary Mr Ashton made the following entry in his official diary:³¹⁵⁴

In light of recognition of weaknesses in OPI subpoena provisions. I took a decision not to retain an official diary until the matter was clarified. That was done on 1 July '08. Now that OPI has adequate subpoena protection I will resume my official diary. For matters in the intervening period I refer to correspondence and my electronic diary.

2199. There were legislative provisions introduced in July 2008 which regularised the process whereby a claim for PII could be made by the OPI to resist production pursuant to subpoena, although such a claim could have been made previously.³¹⁵⁵ That this was so, and the very few occasions on which the courts had required disclosure, was made clear in the second reading speech:

Like other investigatory and oversight bodies, such as the Ombudsman's office and the SIM, OPI staff have a statutory protection from being called to give evidence in legal proceedings. Similar arrangements exist in equivalent interstate bodies.

³¹⁵⁰ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 1, IBAC.0008.0001.0043 @.0001.

³¹⁵¹ Exhibit RC0861 Chief Commissioner Graham Ashton diary, 20 February 2007, 66, RCMP.0097.0001.0001 @.0005.

³¹⁵² Exhibit RC0875 Inspector John Nolan diary, 20 February 2007, 21, IBAC.0019.0001.0001 @.0021.

³¹⁵³ Exhibit RC0861 Chief Commissioner Graham Ashton diary, 20 February 2007, 67, RCMP.0097.0001.0001 @.0006; Exhibit RC0875 Inspector John Nolan diary, 21 February 2007, 22, IBAC.0019.0001.0001 @.0022.

³¹⁵⁴ Exhibit RC0861 Chief Commissioner Graham Ashton diary, 2 July 2008, 67, RCMP.0097.0001.0001 @.0006.

³¹⁵⁵ See: *Police Integrity Act 2008*, s.107.

There are also considerable restrictions that apply when documents of interstate investigatory bodies are subpoenaed in legal proceedings. For example, staff of the NSW Police Integrity Commission cannot be required to produce in any court any document that has come into their possession by reason of their functions under the Police Integrity Commission Act 1996 (New South Wales). In Victoria, OPI documents and files can be produced in such proceedings, although the circumstances in which this occurs are very limited. This is because, at common law, the OPI can argue that disclosure of its documents is against the public interest, according to principles governing public interest immunity claims. Such claims take into account that disclosure of documents held by investigatory bodies such as the OPI can have very serious consequences. For example, disclosure of an investigatory body's information and strategies may undermine its investigations and potentially jeopardise the safety of informants and OPI staff.³¹⁵⁶

Informants could also be deterred from confiding in the OPI if this material can be accessed in legal proceedings. The courts have discretion to weigh these public interest considerations against the nature of any documents that could, for example, be material to a verdict in a criminal trial. In practice, this has meant there have been few occasions where documents have been released and these have been limited to criminal cases. The government takes the view that the court should have a discretion to determine that such documents should be available to a defendant in limited cases where they can be used to demonstrate, for example, a defendant's innocence. This bill introduces a scheme that clarifies the procedure for disclosure of protected documents by codifying the public interest grounds to be taken into account in determining whether a document should be a 'protected document'.

2200. Mr Overland agreed that he may have discussed with Mr Ashton the sensitivity of the proposed Briars investigation and the discussion may have included a suggestion that Mr Ashton not keep notes.³¹⁵⁷ There is no evidence that other investigators within the OPI who were involved in the Briars investigation, including Mr Nolan determined to cease making contemporaneous records.³¹⁵⁸
2201. To the contrary, Mr Nolan said that whilst he was aware of concern over the strength of the legislation to resist broad subpoenas for information, he was not particularly concerned about putting notes in his diary, and that he regarded the subsequent legislation as having gone too far in restricting access to such material. Mr Nolan agreed that as far as he was concerned if he was conducting an investigation there was no reason he should not take notes and records of what he was doing, if there were valid claims for public interest immunity they could be made. Mr Nolan said he had conversations with Mr Ashton about notes being kept in relation to Briars and Petra

³¹⁵⁶ *Police Integrity Bill 2008*, Second reading speech, 13 March 2008, 848 at 851.

³¹⁵⁷ Transcript of Mr Simon Overland, 19 December 2019, 11717-8, TRN.2019.12.19.01.

³¹⁵⁸ Exhibit RC1345B Statement of Commander John Nolan, 10 December 2019, 4 [17], 8-9, VPL.0014.0116.0001 @.0004, .0008-0009; Exhibit RC1345D Statement of Commander John Nolan, 18 February 2020, 2 [8], VPL.0014.0128.0001 @.0002; Transcript of Commander John Nolan, 21 February 2020, 14708-9, TRN.2020.02.21.01.P.

Taskforces, and the view was that there should be a 'single source of truth' with one set of minutes being maintained by Victoria Police. Mr Nolan said that any notes he took of those meetings were lodged with documents in a folder maintained by Mr Ashton in a safe in his office.³¹⁵⁹

2202. Mr Ashton's evidence as to the reasons for not taking notes was consistent with his entry of 21 July 2007; that is he was concerned they might be required to lawfully be produced to a court by order of a subpoena.
2203. The justification in his note, which he again repeated in evidence, was that he kept notes in an alternative location being an electronic diary, (which was, as he conceded, simply an electronic calendar) or in correspondence. In any event, if this was the actual reason for ceasing his diary, and he was adequately and properly recording his activities elsewhere then such records would be equally liable to be produced in accordance with a subpoena as would his diary entries. The fact that Mr Ashton resumed writing a diary after he felt he had adequate legislative protection suggests that he felt that it was necessary to record his actions in that diary.
2204. His important role as the Deputy Director of the OPI required him to fully record and be accountable for his actions.
2205. If a court enforced a subpoena to produce his notes, it would be on the basis that the notes may be relevant to proceedings being litigated. If it was not in the interests of the public that those notes be disclosed to the party subpoenaing them, then that was a question for the court to determine.

2206. On the evidence, it is open to the Commissioner to find that there was no reasonable justification for Mr Ashton to cease taking notes as contemporaneous records concerning an ongoing investigation that he was bound to oversee, and he should not have done so. That is so, because:

2206.1. the reason notes are taken is to contemporaneously and accurately record for accountability what occurred, what was discussed, and reasons for any decisions of substance that were made

2206.2. whether under the new legislative provisions or the previous ones, if a subpoena required the production of material, which might give rise to a PII claim, it would be for the Court to decide

2206.3. Mr Ashton's conduct in not taking notes meant that there was a potential for matters which may need to be disclosed, to never be revealed and PII properly determined by a Court and accordingly had the potential to usurp the Court's role in this regard

³¹⁵⁹ Exhibit RC1345C Statement of Inspector John Nolan, 18 February 2020 , 2 [8], VPL.0014.0128.0001 @.0002; Exhibit RC1345A Statement of Inspector John Nolan, 10 December 2019, 4-5 [17], VPL.0014.0116.0001 @.0004-5; Transcript of Inspector John Nolan, 14708 -1411, TRN.2020.02.21.01.

2206.4. **Mr Ashton's conduct in not taking notes meant that there was a potential that there would be no record of important events or discussions which required recording.**

2207. On 21 February 2007, Ms Nixon was provided a briefing by Mr Overland. There was discussion of the need for legal advice, and for a management committee with accountability to Ms Nixon. Ms Nixon was to formally sign off on the new taskforce.³¹⁶⁰
2208. On 22 February 2007, Mr Overland spoke with Mr Findlay McRae, Director of Legal Services at Victoria Police, in relation to the need to have legal advice available for the Taskforce. Mr McRae briefed Mr David Stevens of the VGSO.³¹⁶¹
2209. On 26 February 2007, a meeting took place between Ms Nixon, Messrs Overland and Cornelius with the Director of the OPI, Mr George Brouwer and Mr Ashton. They were briefed in relation to both the Clonk (Briars) investigation and the new information from Williams (Petra). It was agreed that a joint approach would be taken with the detail being sorted between Messrs Overland, Cornelius and Ashton.³¹⁶²
2210. Immediately following this meeting, Mr Cornelius met with Ms Nixon and Steve Linnell (Media Director) in relation to the pending release of an OPI report entitled 'Past Patterns – Future Directions'.³¹⁶³ The Director of the OPI, Mr George Brouwer, in his letter of transmittal to the Victorian Houses of Parliament, stated about the report:

It demonstrates that the history of the Victoria Police over its 150 or so years, unhappily, is interwoven with recurring strands of misconduct and corruption.

On becoming Director, Police Integrity in November 2004, I was charged with the responsibility of, amongst other things, detecting and preventing serious misconduct and corruption in Victoria Police. I commissioned a review of policing in Victoria to identify past instances of serious misconduct and corruption in order to discern what lessons, if any, would emerge to inform the future work of the Office of Police Integrity (OPI). The result has been revealing.

Corruption and serious misconduct in Victoria Police has a long pedigree and the circumstances which have triggered it have been remarkably persistent. The patterns of misconduct and corruption depicted in the Report are confirmed by our current investigations and will remain a source for the focus of our work.

There has been no shortage of efforts in response to the problems, as demonstrated by the many (19) reviews, royal commissions and inquiries set up by successive governments over the 150 years of the

³¹⁶⁰ Exhibit RC0295, Running Sheet for Operation 'CLONK'/'BRIARS', 2 October 2010, 3, IBAC.0008.0001.0043 @.0003.

³¹⁶¹ Exhibit RC0295, Running Sheet for Operation 'CLONK'/'BRIARS', 2 October 2010, 3, IBAC.0008.0001.0043 @.0003.

³¹⁶² Exhibit RC0295, Running Sheet for Operation 'CLONK'/'BRIARS', 2 October 2010, 4, IBAC.0008.0001.0043 @.0004.

³¹⁶³ Exhibit RC0874, Assistant Commissioner Luke Cornelius Chronology of Briars contacts with Messrs Linnell and Ashby, 3 October 2007, IBAC.0008.0001.0027.

Victoria Police's existence. Most such bodies made recommendations for government action, few were implemented and fewer reforms were sustained. Many of these bodies were established hastily in response to a particular revelation or political imperative and given limited tenure and restricted terms of reference. Their recommendations were often compromised out of political expediency and lack of commitment to reform.

Attempts to address misconduct or corruption on an ad hoc basis made little or no contribution to building a corruption resistant culture within Victoria Police.

Inquiries into police corruption in other local and international jurisdictions demonstrate that in addition to a strong, well-supported management, a further element is required to maintain a modern ethical Force resilient to corruption and misconduct. It is a permanent body, independent of the Force and at arms length from government with inquiry powers and resources to apply continuing pressure to maintain and improve standards of police conduct and performance. Victoria is now equipped with such a body.

Police are responsible for preventing and detecting crime; preserving peace and safety; and enforcing and upholding the law in a manner which has regard to the public good and rights of the individual. In carrying out their duties, police have been provided with significant powers. They are authorised to carry and use weapons; they can lawfully detain and imprison a person; and they can seize and retain property.

When police abuse their authority or break the law they breach the trust of our society.

The experience of OPI to date is that the vast majority of police men and women do a good and conscientious job. But our experience also confirms the extent of the damage done to those police, the Force and the community as a whole, when one or more police are found to be corrupt. This Report will assist the work of OPI and the Force in ensuring the highest possible ethical and professional policing standards in accordance with the Victorian community's expectations.³¹⁶⁴

2211. The following day, Mr Cornelius met with Messrs McRae, Wilson and Linnell, and Ms McKechnie about the pending release of the OPI's Past Patterns – Future Directions report and an Ombudsman report concerning bullying within The Police Association, in order to agree on a 'media strategy/comment regarding the release of both reports'.³¹⁶⁵
2212. On 1 March 2007, Messrs Overland, Ashton and Cornelius met to discuss operational arrangements and agree to management and oversight arrangements. It was determined that a joint investigation agreement would be entered into between Messrs Ashton and Cornelius. There was further discussion as to the strategy for dealing with the Williams (Petra)

³¹⁶⁴ Office of Police Integrity, *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct* (Report, February 2007).

³¹⁶⁵ Exhibit RC0874, Assistant Commissioner Luke Cornelius Chronology of Briars contacts with Messrs Linnell and Ashby, 3 October 2007, IBAC.0008.0001.0027.

allegations, and it was agreed to manage it as a separate investigation with the same management and oversight arrangements.³¹⁶⁶

2213. On 5 March 2007 Mr Overland delivered to Mr Cornelius by hand, a document directing the establishment of the Briars Taskforce which indicated:³¹⁶⁷

- the Taskforce would operate 'off-line' from normal management structures and arrangements given the serious and sensitive nature of the allegations
- the Taskforce would formally report to a 'Management Committee', accountable to the Chief Commissioner and the Director, OPI, comprised of:
 - the Assistant Commissioner ESD
 - a senior OPI representative
 - a Deputy Commissioner
- the Management Committee would be responsible for governance and oversight of the Taskforce including authorising the major investigation plan and critically reviewing progress of the investigation
- the Management Committee would normally meet on a weekly basis with Taskforce management, who would provide a written update at each meeting advising an overview of activity in the past week, forecasting activity for the following week and raising any emerging issues
- minutes would be kept of all Management Committee meetings with Secretariat support provided by the Deputy Commissioner's Staff Officer
- the Taskforce would be led by Detective Superintendent Rod Wilson, ESD, assisted by Detective Inspector Stephen Waddell, ESD, and Detective Senior Sergeant Ron Iddles, Crime Department
- arrangements would be made for the Taskforce to have access to ongoing legal advice from senior lawyers experienced in criminal law
- the Management Committee would be responsible for ensuring that the Chief Commissioner was kept appropriately briefed
- the Management Committee would conduct quarterly reviews of progress and a major review at the end of twelve months to determine the future direction of the investigation
- all aspects of the ongoing management of Mr Gregory would remain the responsibility of Mr O'Brien, who would also be the conduit for all communications between the Taskforce and Mr Gregory.

³¹⁶⁶ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 5, IBAC.0008.0001.0043 @.0005.

³¹⁶⁷ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11097, TRN.2019.12.12.01; Exhibit RC0937 Briars Taskforce file maintained by Assistant Commissioner Cornelius, Memorandum from Deputy Commissioner Overland to Assistant Commissioner Cornelius, 5 March 2007, 260, VPL.0100.0058.0798 @.1057.

2214. In mid-March 2007, Mr Cornelius confirmed arrangements including that Mr Ashton had been nominated to represent the OPI on the Management Committee, and that the OPI would provide two investigators and at least one analyst to support the investigation. Mr Ashton had provided a draft joint agency agreement seeking to outline operating arrangements in respect of the conduct and management of the taskforce.³¹⁶⁸

2215. On 22 March 2007 the Briars Taskforce Joint Agency Agreement was entered into between Victoria Police and the OPI.³¹⁶⁹ The Agreement was signed by Messrs Cornelius and Ashton. It established an 'Operations Management Group' (OMG) consisting of Messrs Overland, Cornelius and Ashton, which would:

- maintain coordination of the operation and enhance co-operation and information sharing between participating agencies
- monitor results of the operation against its aims/scope
- ensure the efficient collection and timely dissemination of information and intelligence
- perform a dispute resolution function as required to resolve issues identified during the course of this investigation.

2216. The agreement also included that:

- all aspects of the ongoing management of Mr Gregory would remain the responsibility of Mr O'Brien, who would also be the conduit for all communications between the Taskforce and Mr Gregory
- the joint investigation would come under the command of Mr Wilson
- the OMG would oversee progress and determine when the operation had been finalised
- the OPI and Victoria Police would supply the necessary resources to meet the aim/scope of the operation
- the estimated duration was 12 months
- the OMG would meet weekly to evaluate progress, and be informed by a written briefing paper received prior to the meeting, authored by the Operations Commander (Mr Wilson)
- risk assessments on police informers and police members will be completed as required by the joint investigation team
- Briars was established as a highly covert taskforce, operating from the OPI offices.³¹⁷⁰

³¹⁶⁸ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11097, TRN.2019.12.12.01; Exhibit RC0937 Briars Taskforce file maintained by Assistant Commissioner Cornelius, Memorandum from Mr Brian Wilson to Task Force "Briars" Operation Management Group", 15 March 2007, 250, VPL.0100.0058.0798 @.1047.

³¹⁶⁹ Exhibit RC0865 Joint Agency Agreement between OPI and Victoria Police, 22 March 2007, VPL.0005.0012.0610.

³¹⁷⁰ Exhibit RC0937 Briars Taskforce file maintained by Assistant Commissioner Cornelius, Media Strategy, May 2007, 180-204, VPL.0100.0058.0798 @.0985-.1001; Exhibit RC0865 Joint Agency Agreement between OPI and Victoria Police, 22 March 2007, VPL.0005.0012.0610.

Establishment of Reference Group to advise the Chief Commissioner

2217. On 20 February 2007, during a meeting about the establishment of Operation Briars, Messrs Overland and Cornelius discussed the establishment of a reference group to advise Ms Nixon as to the management of government and media issues.³¹⁷¹
2218. Subsequently the 'CCP Reference Group' was formed. The purpose of the group was outlined in a document understood to have been prepared by Mr Overland entitled 'Operation Briars, Scenario Discussion'³¹⁷²:

In recognising the significant organisational/reputational risks in undertaking the investigations into links between [police] corruption and organised crime, this reference group will

- *Assist and develop options and solutions with the CCP on strategic management issues and risks*
- *Through CCP provide any necessary advice to the Premier and Cabinet*
- *Meet on a continuing but ad hoc basis*
- *Retain the initial membership but may expand to include others as issues and risks emerge*
- *Not advise on operational issues*
- *Initially use scenarios to explore and identify issues likely to require advice*

2219. Three scenarios were raised as to what might occur in the investigation.
2220. 'Scenario 3' contemplated the uncontrolled release of information of the unconfirmed link between (police) corruption and killings, leading to the compromise and failure of investigations, and increasing pressure on the government and Victoria Police to agree to a Royal Commission, and ultimately leading to a Royal Commission.
2221. On 1 March 2007, the group, which included Ms Nixon, Messrs Overland and Cornelius as well as Messrs Ken Latta (Executive Director Corporate Services), Andy Allen (Chief of Staff to the Chief Commissioner until early 2007 when he became a Divisional Superintendent for the Geelong Region), Steve Linnell and Alastair Milroy (ACC), convened a meeting.³¹⁷³ Amongst other matters, it was resolved to:
- recruit former Royal Commissioner, Mr Frank Costigan, to the group (Ms Nixon to action)
 - take seven key issues identified by the OPI relating to ensuring integrity to the Chief Commissioner for consideration (Mr Cornelius to action)

³¹⁷¹ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11097, TRN.2019.12.12.01

³¹⁷² Transcript of Mr Simon Overland, 20 December 2019, 11867, TRN.2019.12.19.01; Exhibit RC0928 Operation Briars Scenario Discussion, 1 March 2007, 11-22, VPL.0100.0013.2358 @.2368-.2379.

³¹⁷³ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 3, IBAC.0008.0001.0043 @.0003.

- re-examine work done looking at recommendations of previous Royal Commissions and mapping recommendations against Victoria Police (Messrs Cornelius and Linnell to action)
- develop indicators in relation to considerations of position on Royal Commission (Mr Overland to action)
- discuss with O'Brien the option of [REDACTED]
[REDACTED]

2222. It is apparent from this last point that the reference group would also consider similar issues which might arise in the Petra Taskforce investigation; a link between police corruption and the murders of Christine and Terrence Hodson.

2223. In his evidence to the Commission, Mr Overland agreed that issues arising in 'Scenario 3', as described above, were the sorts of things Ms Nixon was concerned about in terms of organisational risk, and that the way in which those risks were being managed, such as the recruitment of a former Royal Commissioner, indicated the seriousness with which such risks were regarded by Ms Nixon.³¹⁷⁴

2224. In May 2007 a media strategy was developed for the Briars and Petra Taskforces.³¹⁷⁵ Mr Overland had met with Mr Costigan on 19 April 2007 as to his membership of the group, and then spoke with him on 18 May 2007 as to his views on the media strategy.

Petra Taskforce

Background

2225. Terrence Hodson was a drug dealer who became a police informer in 2002 following his arrest by Detective Senior Constable David Miechel of the MDID. Mr Miechel became his handler. When Detective Sergeant Paul Dale joined the MDID in 2002, he led Mr Miechel's crew and became Mr Hodson's controller.

2226. In September 2003 Messrs Dale and Miechel's MDID crew were engaged in Operation Galop, targeting a large-scale drug manufacturing ring involving Azzam Ahmed, Abbey Haynes and Colleen O'Reilly. Surveillance was being conducted on a house in Dublin Street, Oakleigh.

2227. Operation Galop was preparing for the execution of a warrant on the house, which was believed to contain a large amount of cash and drugs, when on AFL Grand Final night, 27 September 2003, the house was burgled. A neighbour rang to report suspicious activity, whereupon Messrs Miechel and Hodson were arrested nearby. Mr Miechel, who was injured, borrowed a telephone and rang Mr Dale. Mr Dale went to the MDID office soon afterwards and in the following days. Mr Dale said this attendance was in the course of his duty. It was later alleged he took a blue file containing duplicate IRs relating to information supplied by Mr Hodson.

³¹⁷⁴ Transcript of Mr Simon Overland, 20 December 2019, 11867, TRN.2019.12.19.01.

³¹⁷⁵ Exhibit RC0937 Briars Taskforce file maintained by Assistant Commissioner Cornelius, Media Strategy, May 2007, 180-204, VPL.0100.0058.0798 @.0985-.1001.

2228. In the weeks thereafter, Mr Hodson spoke with ESD Detectives and implicated both Messrs Miechel and Dale in the burglary. He later agreed to give evidence against them.
2229. On 5 December 2003, Messrs Dale, Miechel and Hodson were all arrested, charged and remanded in relation to the burglary.
2230. On 16 May 2004, Terrence Hodson and his wife, Christine Hodson, were murdered in their home in Kew.
2231. Shortly before the murder, a newspaper published information that originated from an information report, IR44, containing information Hodson had supplied. By the end of May 2004, there were further media reports which indicated that at least part of IR44 had been seen by, and may be in the possession of, journalists, criminals or others.
2232. On 17 May 2004, the Homicide Squad commenced Operation Loris to investigate the murders. Dale was a suspect, as were a number of gangland identities, including Messrs Tony Mokbel and Carl Williams, who had knowledge of Hodson's status as an informer. There were calls for a Royal Commission.
2233. In early June 2004, the Police Ombudsman (as he then was) engaged Mr G.E. (Tony) Fitzgerald to investigate the matter. The investigation was delayed for some months until the *Police Regulation Act 1958* was extensively amended on 16 November 2004, appointing the Police Ombudsman to the new statutory office of Director, Police Integrity. The mandate of the OPI included detecting, investigating and preventing police corruption and serious misconduct. Separately to Victoria Police, the OPI conducted enquiries related to the Hodson murders, specifically linked to the leaking of IR44. Mr Fitzgerald found that Mr Dale was an obvious suspect in the theft of IR44 from the MDID offices as he attended the office immediately after Mr Miechel called him.
2234. From around November 2006 Purana Detectives had discussions with representatives of Mr Carl Williams, including his then counsel, Mr Peter Faris, as to the potential resolution of the trial he was facing for the murders of Moran and Barbaro. This included some contemplation of assistance by Mr Carl Williams in relation to the Hodson murders.³¹⁷⁶
2235. By early 2007 Mr Carl Williams came to be represented by Mr David Ross QC and Ms Sharon Cure. The trial was set down to commence on 27 February 2007. In early February, further discussions were had about the resolution of Mr Carl Williams' matters. On 7 February 2007, Purana Detectives visited him [REDACTED] related to Mr Dale and the Hodson murders.³¹⁷⁷
2236. As noted above, on 26 February 2007 a meeting took place between Ms Nixon, Messrs Overland and Cornelius with Messrs Brouwer and Ashton of the OPI. They were briefed in relation to both the Operation Clonk (which became Briars) investigation and the new information from Williams (which

³¹⁷⁶ Transcript of Mr James (Jim) O'Brien, 3 September 2019, 5454-8, TRN.2019.09.03.01; Exhibit RC0933 Mr James (Jim) O'Brien diary, 23 October 2006, 54, VPL.0100.0073.0002.

³¹⁷⁷ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, COM.0104.0001.0001; Transcript of Mr James (Jim) O'Brien, 3 September 2019, 5455, TRN.2019.09.03.01.

became Petra). It was agreed that a joint approach would be taken with the detail being sorted between Messrs Overland, Cornelius and Ashton.

2237. On 28 February 2007, Mr Carl Williams entered a plea of guilty to the murders of Jason Moran, Lewis Moran and Mark Mallia. Outstanding charges relating to the murders of Mark Moran and Pasquale Barbaro were withdrawn.³¹⁷⁸
2238. On the morning of 1 March 2007, the Premier and the Police Minister, along with Ms Nixon and Mr Overland, attended at the Purana Taskforce office to congratulate its members.³¹⁷⁹

Establishment of the Petra Taskforce

2239. As noted above, both the Petra and Briars Taskforces were being established by early March 2007. It had been determined by Messrs Overland, Cornelius and Ashton that the Williams (Petra) allegations would be managed as a separate investigation with the same management and oversight arrangements as the Briars Taskforce.³¹⁸⁰
2240. On 14 March 2007, Mr Carl Williams was summoned to a coercive hearing, where he was represented by Ms Cure. He sought reassurances as to his sentence and refused to answer questions³¹⁸¹ He instructed Ms Cure to inform Messrs O'Brien and Bateson, who were both present, that he did not wish to make a statement assisting them.
2241. On 16 March 2007, Messrs Trichias and O'Brien were involved in taking a 'can say' statement from Mr Carl Williams.³¹⁸² Mr O'Brien retained the 'can say' statement (which was produced in the course of his evidence to the Commission),³¹⁸³ which he later provided to Mr Overland. Mr Overland was regularly updated by Mr O'Brien in relation to events concerning Mr Carl Williams.³¹⁸⁴
2242. On 22 March 2007, Mr Ryan spoke to Mr Overland as to the progress with the statement from Mr Carl Williams. Mr Overland advised that he believed a taskforce should be established. Mr Ryan told him he was prepared to lead the taskforce but would want to pick his Detective Senior Sergeant. They discussed that the OPI 'wanted to be in on the investigation'. Mr Ryan was opposed, indicating that they should oversee it, but not participate in the investigation.³¹⁸⁵ The following day Mr Ryan was officially advised that he

³¹⁷⁸ 'Williams pleads guilty to 3 underworld murders', *ABC News* (online, 28 February 2007) <<https://www.abc.net.au/news/2007-02-28/williams-pleads-guilty-to-3-underworld-murders/2205484>>;

'Details Revealed of 3rd Williams Murder', *ABC News* (online, 1 March 2007)

<<https://www.abc.net.au/news/2007-03-01/details-revealed-of-3rd-williams-murder/2206330>>.

³¹⁷⁹ Exhibit RC933 Mr James (Jim) O'Brien diary, 1 March 2007, 290.

³¹⁸⁰ Exhibit RC0295, Running Sheet for Operation 'CLONK'/BRIARS', 2 October 2010, 5, IBAC.0008.0001.0043 @.0005.

³¹⁸¹ Exhibit RC933 Mr James (Jim) O'Brien diary, 14 March 2007, 300 .

³¹⁸² Transcript of Mr James (Jim) O'Brien, 10 September 2019, 5922, RC_MPI_10Sep19_provisional.

³¹⁸³ RC0481, 'Can-say' statement of Carl Williams, dated approximately 16 March 2007; Transcript of James (Jim) O'Brien, 10 September 2019, 5924 [35] – 5925 [18].

³¹⁸⁴ Exhibit RC933 Mr James (Jim) O'Brien diary, 16 March 2007, 304.

³¹⁸⁵ Transcript of Mr James (Jim) O'Brien, 3 September 2019, 5455, TRN.2019.09.03.01; Exhibit RC0312 Mr Gavan Ryan diary, 22 March 2007, 115, VPL.005.0120.0187 @.0301.

would lead the investigation, and that Detective Senior Sergeant Shane O'Connell would be his senior investigator.³¹⁸⁶

2243. Following this, Mr Overland wrote seeking approval from Ms Nixon to establish a taskforce to investigate the murders of Christine and Terrence Hodson. He attached a document containing draft directions to Superintendents Jack Blayney and Paul Hollowood of the Crime Department, which set out the proposed terms of reference, and other matters related to the operation of the proposed taskforce.³¹⁸⁷
2244. Having received approval,³¹⁸⁸ on 3 April 2003, Mr Overland signed and sent the document to Messrs Blayney and Hollowood.³¹⁸⁹ Amongst other matters, the document stated:
- the Taskforce would operate 'off-line' from normal management structures and arrangements given the serious and sensitive nature of the allegations
 - the Taskforce would formally report to a 'Management Committee', accountable to the Chief Commissioner and the Director, OPI, comprised of:
 - the responsible Crime Department Operations Superintendent³¹⁹⁰
 - the Assistant Commissioner ESD
 - a senior OPI representative
 - a Deputy Commissioner
 - the Management Committee would be responsible for governance and oversight of the Taskforce including authorising the major investigation plan and critically reviewing progress of the investigation
 - the Management Committee would normally meet on a weekly basis with Taskforce management, who would provide a written update at each meeting advising an overview of activity in the past week, forecasting activity for the following week and raising any emerging issues
 - minutes would be kept of all Management Committee meetings with Secretariat support provided by the Deputy Commissioner's Staff Officer

³¹⁸⁶ Exhibit RC0312 Mr Gavan Ryan diary, 23 March 2007, 117, VPL.005.0120.0187 @.0303.

³¹⁸⁷ Exhibit RC1187 Petra Investigation File, Letter to Ms Nixon attaching draft direction, 2 April 2007, 474-8, VPL.0100.0013.0846 @.1319 -.1323; Exhibit RC10345 Mr Overland Petra Investigation Folder (No.1), Letter to Ms Nixon attaching draft directions, 2 April 2007, 3-7, VPL.0100.0129.0001 @.0003 - 0007.

³¹⁸⁸ Exhibit RC1187 Petra Investigation File, Letter to Ms Nixon attaching draft direction, 2 April 2007, 474, VPL.0100.0013.0846 @.1319; Exhibit RC10345 Mr Overland Petra Investigation Folder (No.1), Letter to Ms Nixon attaching draft directions, 2 April 2007, 3, VPL.0100.0129.0001 @.0003.

³¹⁸⁹ Exhibit RC1187 Petra Investigation File, Letter to Mr Blayney and Superintendent Hollowood, 3 April 2007, 475-478, VPL.0100.0013.0846 @.1320 -.1323; Exhibit RC10345 Mr Overland Petra Investigation Folder (No.1), Letter to Mr Blayney and Superintendent Hollowood, 3 April 2007, 4-7, VPL.0100.0129.0001 @.0004- .0007.

³¹⁹⁰ Messrs Blayney, Hollowood and Brown all performed that role at the time.

- the Taskforce would be oversighted by a Crime Department Operations Superintendent and led by Detective Inspector Gavan Ryan
 - arrangements would be made for the Taskforce to have access to ongoing legal advice from senior lawyers experienced in criminal law
 - the Management Committee would be responsible for ensuring that the Chief Commissioner was kept appropriately briefed
 - the Management Committee would conduct quarterly reviews of progress and a major review at the end of twelve months to determine future direction
 - all aspects of the ongoing management of Mr Thomas would remain the responsibility of Mr O'Brien, who would also be the conduit for all communications between the Taskforce and Mr Thomas.³¹⁹¹
2245. As noted below, a formal joint agency agreement in relation to the Petra Taskforce was not executed until 25 June 2007.
2246. On 26 March 2007, Mr Ross and Ms Cure obtained a ruling from the Victorian Bar Ethics Committee in relation to their continuing to act for Mr Carl Williams, whose instructions had changed after his plea of guilty.³¹⁹²
2247. On 24 April 2007, Ms Cure attended on Mr Carl Williams at the prison. The police arrived with his statement which he signed. Ms Cure did not read the document or know of its contents.³¹⁹³
2248. On 27 April 2007, a plea hearing took place for Mr Carl Williams before her Honour Justice King in the Supreme Court. The prosecution tendered Mr Carl Williams' statement in a sealed envelope and he gave an undertaking to give evidence in accordance with the statement.

Gobbo Connection to 'Petra' related Matters

2249. Ms Gobbo had numerous links and associations with various individuals and events associated with these matters and investigations, including:
- prior to the burglary on the Operation Galop drug house, Ms Gobbo had dealt with Messrs Miechel and Dale in their capacity as investigators in various drug cases in which she was briefed. In her analysis of a number of cases, Ms Gobbo had concluded that Terrence Hodson was involved as an informer. She made this known to Messrs Miechel and Dale at the time³¹⁹⁴
 - Messrs Miechel and Hodson had been arrested close to the scene of the Operation Galop drug house, on suspicion that they had been involved in carrying out the burglary

³¹⁹¹ Mr Thomas had made a statements to the Purana Taskforce which suggested that Dale was involved in a corrupt relationship with Carl Williams: See Statement of Mr Thomas, 19 July 2006, 30 [85], VPL.0204.0009.0170 @.0199; Statement of Mr Thomas, 19 July 2006, PND.033.002.0113.

³¹⁹² Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 2 [18], COM.0104.0001.0001 @.0002.

³¹⁹³ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, [22], COM.0104.0001.0001 @.0002.

³¹⁹⁴ As per Chapter 2 of the narrative submissions.

- targets of Operation Galop - Azzam Ahmed, Abbey Haynes and Colleen O'Reilly were also arrested over the course of that night
- in the late evening or early morning following the arrests, Ms Gobbo was contacted by an associate of Tony Mokbel, Gus El Hariri a.k.a Jason Haykal , who asked her if she could contact police and make inquiries about a burglary which had taken place. She told him that she would not do so³¹⁹⁵
- Gobbo was engaged to represent Azzam Ahmed, Abbey Haynes and Colleen O'Reilly. She was initially called by Mr Dale on the Sunday morning following the arrests and told that the suspects wanted her to provide them with legal advice³¹⁹⁶
- ESD came to speak to Mr Terrence Hodson through Ms Gobbo. ESD Detective De Santo, with whom Ms Gobbo had an association,³¹⁹⁷ was aware that Ms Gobbo had represented the son of Terrence Hodson, Andrew Hodson, and asked that she assist with facilitating contact
- Ms Gobbo thereafter came to represent Terrence Hodson in relation to these matters
- Terrence Hodson told the ESD he believed that Ms Gobbo was sleeping with Mr Dale
- Ms Gobbo became more closely associated with Mr Dale. She told the Commission that she had slept with him on two occasions, the first believed to be on 9 October 2004 after meeting at O'Connell's Bar in South Melbourne³¹⁹⁸
- around this time Mr Dale spoke to Ms Gobbo about concerns he held that he was being investigated as a potential participant in the Operation Galop burglary. She provided him with photocopies of a number of relevant cases concerning criminal complicity which she had highlighted³¹⁹⁹
- as part of Terrence Hodson's co-operation with the ESD he attempted to orchestrate a meeting with Mr Dale, through Ms Gobbo, which Ms Gobbo believed he had recorded³²⁰⁰
- when Dale was arrested on 5 December 2003, he rang Ms Gobbo for advice. She spoke to him on the telephone for around 15 to 20 minutes³²⁰¹
- later that morning, when Mr Hodson's instructing solicitor, Mr Valos, proposed to ESD investigators that Ms Gobbo would attend with him to confer with Mr Hodson, advice was obtained from the OPP and the

³¹⁹⁵ Exhibit RC0281 ICR3838 (80), 20 May 2007, 843, VPL.2000.0001.2429.

³¹⁹⁶ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 25, Ms Gobbo and RCMPPI 13.06.2019.

³¹⁹⁷ See Chapter 2; Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 36-37, Ms Gobbo and RCMPPI 13.06.2019.

³¹⁹⁸ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 8, 14, Ms Gobbo and RCMPPI 13.06.2019.

³¹⁹⁹ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 33-34, Ms Gobbo and RCMPPI 13.06.2019.

³²⁰⁰ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 28-29, Ms Gobbo and RCMPPI 13.06.2019.

³²⁰¹ Transcript of Mr Andrew Gregor, 17 May 2019, 2023, TRN.2019.05.17.

Director to the effect that Ms Gobbo should not be permitted access to Mr Hodson on the basis of a conflict of interest³²⁰²

- following this, during December 2003, prior to his getting bail, Ms Gobbo conducted two professional visits upon Mr Dale in custody. During one of these visits Ms Gobbo was given written instructions by Mr Dale to pass to his instructing solicitor, Tony Hargreaves. In addition to providing the notes to Mr Hargreaves, Ms Gobbo made a copy of those instructions and kept them, later providing the notes to the SDU ³²⁰³
- in late December 2003, Ms Gobbo represented Mr Ahmed in a successful bail application. Following this time Ms Gobbo came to have a close, personal relationship with Mr Ahmed³²⁰⁴
- when Mr Dale was served with his hand up brief in early 2004 Ms Gobbo learned that Terrence Hodson had been recording her. ³²⁰⁵ Ms Gobbo told the Commission Mr Dale provided her with documents which might assist in her defence of the three civilians who had been charged in Operation Galop³²⁰⁶
- in early 2004 Ms Gobbo and Mr Dale were using phone numbers registered in fictitious names. They used these phones to communicate with each other, amongst other people.³²⁰⁷ During this time Ms Gobbo facilitated some communication between Carl Williams and Mr Dale
- on the night of the murders, Ms Gobbo was having dinner with Mr Ahmed³²⁰⁸
- when Mr Andrew Hodson discovered his parents' bodies, his first call was to Ms Gobbo, in order that she could facilitate contact between he and Mr De Santo
- on 1 July 2004 Ms Gobbo was interviewed by Homicide Squad Detectives, Detective Senior Sergeant Charlie Bezzina and Detective Senior Constable Cameron Davey.³²⁰⁹ During the interview Ms Gobbo was asked about numerous of her clients, whether she was representing them, and whether she had discussed Terrence Hodson, including his informer status, with them. Those she was asked about included Tony Mokbel and associates, Andrew Hodson, Shaheen

³²⁰² Transcript of Mr Andrew Gregor, 17 May 2019, 2025-27, TRN.2019.05.17.

³²⁰³ These instructions were later provided by Ms Gobbo to the SDU and shown to police investigating Mr Dale.

³²⁰⁴ See, eg, Exhibit RC0482B Ms Nicola Gobbo diary, 19 November 2003, 33, MIN.0005.0003.0133 @0165.

³²⁰⁵ Transcript of Gobbo, 13 June 2019, 28 [27]- 29 [26].

³²⁰⁶ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 30, Ms Gobbo and RCMPPI 13.06.2019.

³²⁰⁷ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 63, Ms Gobbo and RCMPPI 13.06.2019. This information did not become known by police until late September 2008.

³²⁰⁸ Exhibit RC0789, Transcript of conversation between Nicola Gobbo and the Commission 13.06.2019, 13 June 2019, 64-5, Ms Gobbo and RCMPPI 13.06.2019.

³²⁰⁹ Exhibit RC0102 Statement of Mr Charlie Bezzina, 17 April 2019, 2 [8], VPL.0014.0016.0001 @.0002.

Wahid, Shane Pidoto, Bruno D'Aloia, Azzam Ahmed, Abbey Haynes, Colleen O'Reilly, Jason Rodda and Glenn O'Dea.³²¹⁰

OPI Intention to Examine Gobbo

2250. As referred to in Chapter 12, in June 2006, Victoria Police and the OPI had signed a joint agency agreement in relation to Operation Khadi. Part of that investigation involved investigating allegations of dishonesty by a member who had arrested Mr Ahmed (again) on 16 August 2004, and the potential involvement of police and former members of police, including Mr Waters, in subsequent events. The lead investigator from Victoria Police was to be Mr Wilson. It was intended that as part of the investigation, Ms Gobbo would be summoned to a compulsory hearing at the OPI, [REDACTED]. [REDACTED]. Prior to this occurring, enquiries were made within Victoria Police as to whether there were any existing [REDACTED].
2251. Reports were made to Mr Biggin, who was then Acting Commander of Intelligence and Covert Support, and then to Mr Overland, due to concerns over the potential compromise of Ms Gobbo as a human source.
2252. Submissions are made in Chapter 12 as to findings open on the evidence that following this time Mr Overland made Mr Wilson, and his supervisor, Mr Cornelius aware of Ms Gobbo's status as a human source, and direction was given to Mr Wilson of the need for communication with the SDU.
2253. This led to Operation Khadi investigators, one of whom was told about Ms Gobbo's status, having an informal discussion with her in chambers, prior to the proposed OPI hearing. Following upon this informal discussion, further concerns were raised by Ms Gobbo and the SDU about the risk of compromise should Ms Gobbo be required to answer questions at the OPI.
2254. Submissions are made in Chapter 12 as to findings open on the evidence as to the request that the OPI not pursue the hearing involving Ms Gobbo and Mr Ashton having been briefed as to Ms Gobbo's status as a human source.
2255. Following the meeting with Mr Ashton reports were made by Mr Cornelius to Mr Wilson, and by Mr Overland to Messrs Biggin and Sandy White, that the OPI had agreed not to coercively question Ms Gobbo on this occasion in relation to Operation Khadi, but that the OPI, who had engaged former Royal Commissioner, Tony Fitzgerald, intended to examine Ms Gobbo in the future in relation to:
- the leaked information report relating to Terrence Hodson
 - a belief that she may have been a conduit between 'Mokbel/Williams' and Dale in relation to the information report leading to the killing of the Hodsons.

³²¹⁰ Exhibit RC0104 Transcript of interview between Mr Charlie Bezzina, Mr Cameron Davey and Ms Nicola Gobbo, dated 1 July 2004, VPL.0005.0095.0001; Exhibit RC0105 Information Report of Mr Cameron Davey, 1 July 2004, VPL.2000.0001.9224.

CHAPTER 15 – 2007 – THE ONGOING USE OF GOBBO AS A HUMAN SOURCE

Introduction

2256. This chapter contains submissions concerning events which occur largely throughout 2007.
2257. There are a number of events which occurred during 2007 which require some explanation or are connected to events that occurred before and after 2007 and have therefore been dealt with in separate chapters of these submissions, as indicated below.
2258. The following are summaries of those matters which place the events in this chapter in context.

Chapter 13 – Operation Gosford

2259. Further events concerning and relevant to Operation Gosford occurred during 2007. Ms Gobbo continued to receive anonymous threats throughout 2007 and into 2008.
2260. Investigators who became involved in 2007 included Messrs Flynn, Rowe, Hayes and Ms Hantsis.
2261. As Purana investigators, they were aware that Ms Gobbo was a human source who had provided information in that capacity to the SDU, which in turn was being utilised by them, in various investigations. They were also dealing with Ms Gobbo as the legal representative of those whom they had arrested and charged on the basis of that information.
2262. Further events the subject of Operation Gosford investigations, including the deliberate setting alight of Ms Gobbo's car, in 2008, and are dealt with in Chapters 13 and 17.

Chapter 14 – The Establishment of Taskforces Briars and Petra

2263. As is apparent from Chapter 14, in 2007 the two separate Taskforces, Briars and Petra, were commenced when Victoria Police were provided with new information about the potential involvement of serving and former members in three murders.
2264. Following the establishment of these Taskforces, Ms Gobbo's value as a human source increased again, and there appeared, at least on the part of some officers, to be a greater preparedness to task her once again.
2265. Submissions concerning the conduct of those investigations are contained in Chapter 14 and following chapters.

Chapter 16 – Some Cases of Conflicts and Disclosure Issues

2266. The initial decision to register Ms Gobbo had been to use her as a human source against Purana Targets. Many were or had been clients of hers. Over time, Ms Gobbo's use expanded and included circumstances in which she would represent people whom she had not previously represented, but who had been arrested on the basis of information she had provided. Accordingly, it is submitted, she had an obvious conflict of interest.
2267. Many of the arrests occurred in 2006, however those matters were coming to court in 2007, and are dealt with in this and following chapters. Particular aspects of the conduct of Victoria Police officers in a number of these cases; Messrs Bickley, Milad Mokbel, Rob Karam, Faruk Orman and Mick Gatto are dealt with in Chapter 16.

Early 2007 – Gobbo Frustration

2268. In January 2007, Ms Gobbo met with Messrs Peter Smith and Green. Ms Gobbo asked what information they wanted her to pass on. She was told to pass on all information, although it would not always be acted upon. It was noted during the meeting that Ms Gobbo had lost 32kg in the previous few months. There was discussion about Ms Gobbo seeing a psychologist arranged by the SDU.³²¹¹ She was provided with a psychologist's phone number a few days later.³²¹² In the months ahead, Ms Gobbo attended a number of meetings, but essentially resisted engagement with the psychologist.
2269. A Monthly Source Review was prepared on 5 March 2007, around three and a half months since the last review. It noted that Ms Gobbo continued to provide useful intelligence and remained close to targets of interest, and that she was frustrated in the knowledge that Victoria Police would not task her to collect intelligence. There were concerns about the potential for her exposure through disclosure processes in an upcoming committal proceeding of Mr Milad Mokbel. It was noted that her handlers would focus on this to ensure her protection. These matters are dealt with in more detail in Chapter 16.
2270. That night Messrs Sandy White and Anderson met with Ms Gobbo. Amongst matters discussed was the lack of police interest in her information. She was told it would only be disseminated if handlers could be certain she would not be compromised. She was advised the relationship could be terminated if she wished. Ms Gobbo wanted to continue as a human source. She then sought advice about representing Ms Zaharoula Mokbel (against whom ██████████, who Ms Gobbo represented, had made a statement). She was told the decision was hers, the police could not be involved in undermining a person's defence.³²¹³

2271. On the evidence, it is open to the Commissioner to find on 5 March 2007, and other similar occasions, the members of the SDU should

³²¹¹ Exhibit RC0281 ICR3838 (075), 17 January 2007, 606-607 VPL.2000.0003.2192-2193; Exhibit RC0284 SML3838, 17 January 2007, 78 VPL.2000.0001.9447 @.9524.

³²¹² Exhibit RC0284 SML3838, 19 January 2007, 79 VPL.2000.0001.9447 @.9525.

³²¹³ Transcript of face to face meeting between Ms Gobbo, Anderson and Sandy White 5 March 2007; VPL.0005.0127.0308, pages 213 and 214.

have told Ms Gobbo that she could not represent persons for whom she would be acting in conflict of interest with her role as a human source assisting Victoria Police, and if she did so, it would be necessary to disclose Ms Gobbo's role to such people, or alternatively make a claim for public interest immunity.

2272. Further, on the evidence, it is open to the Commissioner to find that the effect of failing to give Ms Gobbo such ultimatums resulted in the perpetuation of a situation that resulted in clients of Ms Gobbo, including Ms Mokbel, not receiving independent legal representation, which was their entitlement, and a requirement to ensure a fair hearing.

2273. On 19 March 2007, a management meeting occurred with Messrs Hardie, Sandy White and Black. Amongst other matters they discussed Ms Gobbo and the implications of Mr Milad Mokbel's court proceedings.³²¹⁴

February to April 2007 – Gobbo Expresses Concern about Co-Operation by Carl Williams

2274. A reading of Ms Gobbo's communications with the SDU from 19 February 2007 indicates that Ms Gobbo came to understand that Mr Carl Williams was considering assisting police. It is apparent that she became increasingly concerned about the possibility that he might implicate her in criminal activity.³²¹⁵ It is submitted that this would have been apparent to members of the SDU to whom she spoke, or who read her ICRs.

2275. On 27 February 2007, Ms Gobbo reported to the SDU that Mr Dale had been in touch and wanted to see her. She thought he might have a message to pass to Mr Carl Williams. The SDU suggested to Ms Gobbo that she should not meet with Mr Dale outside normal business hours and that any meeting should be in her normal professional capacity.³²¹⁶

³²¹⁴ Exhibit RC0591 Mr Black diary, 19 March 2007, 7 RCMP1.0098.0001.0001 @.0007.

³²¹⁵ Exhibit RC0281 ICR3838 (067), 19 February 2007, 644 VPL.2000.0003.2230; Exhibit RC0281 ICR3838 (067), 20 February 2007, 645-646 VPL.2000.0003.2231-2232; Exhibit RC0281 ICR3838 (067), 21 February 2007, 648 VPL.2000.0003.2234; Exhibit RC0281 ICR3838 (067), 22 February 2007, 650 VPL.2000.0003.2236; Exhibit RC0281 ICR3838 (067), 23 February 2007, 653-654 VPL.2000.0003.2239-2240; Exhibit RC0281 ICR3838 (068), 27 February 2007, 661 VPL.2000.0003.2247; Exhibit RC0281 ICR3838 (068), 1 March 2007, 664 VPL.2000.0003.2250; Exhibit RC0281 ICR3838 (069), 7 March 2007, 679 VPL.2000.0003.2265; Exhibit RC0281 ICR3838 (070), 13 March 2007, 693 VPL.2000.0003.2279; Exhibit RC0281 ICR3838 (070), 14 March 2007, 707 VPL.2000.0003.2293; Exhibit RC0281 ICR3838 (075), 16 April 2007, 793 VPL.2000.0003.2379; Exhibit RC0281 ICR3838 (076), Exhibit RC0281 ICR3838 (076), 27 April 2008, 811-812 VPL.2000.0003.2397-2398; Exhibit RC0281 ICR3838 (077), 29 April 2007, 817 VPL.2000.0003.2403; Exhibit RC0281 ICR3838 (078), 7 May 2007, 828 VPL.2000.0003.2414; Exhibit RC0281 ICR3838 (080), 25 June 2007, 935 VPL.2000.0003.2521; Exhibit RC0284 SML3838, 2 May 2007, 109 VPL.2000.0001.9447 @.9555; Exhibit RC0284 SML3838, 6 May 2007, 109 VPL.2000.0001.9447 @.9555; Exhibit RC0284 SML3838, 9 May 2007, 110 VPL.2000.0001.9447 @.9556.

³²¹⁶ Exhibit RC0284 SML3838, 2 May 2007, 109 VPL.2000.0001.9447 @.9555; Exhibit RC0284 SML3838, 6 May 2007, 109 VPL.2000.0001.9447 @.9555; Exhibit RC0284 SML3838, 9 May 2007, 110 VPL.2000.0001.9447 @.9556.

2276. On 7 March 2007, Ms Gobbo reported to the SDU that Mr Carl Williams had telephoned her whilst she was on the telephone with Mr O'Brien. She said Mr Carl Williams wanted to discuss details of his plea. He told her that he was prepared to give evidence, although he did not detail what evidence he could give. She said that he told her he did not want to help the police. Ms Gobbo said she explained the pros and cons to Mr Carl Williams of giving evidence. She raised concerns with the SDU that if Mr Carl Williams gave evidence, he would 'fuck up' other prosecutions as his account would differ to that of other witnesses.³²¹⁷
2277. On 16 April 2007, Ms Gobbo asked the SDU to enquire of Mr O'Brien as to whether Mr Carl Williams had concluded his statement relating to Mr Dale. She explained that she was considering taking action against Solicitor 2 for outstanding legal bills and doing so might provide Mr Carl Williams with motivation to make a false or misleading statement against her (Ms Gobbo).³²¹⁸

April 2007 – Early Knowledge of the Briars Investigation

2278. On 1 April 2007, Ms Gobbo reported to Mr Anderson that she had met with Mr Waters and Inspector Bob Hodgkin at the South Melbourne Anglers Club. She said that Mr Waters was concerned about what Mr Gregory had been saying, indicating whatever it was would be 'all crap unless Gregory is corroborated'. Mr Waters discussed the trial of Mr Goussis, whom he didn't think guilty of the murder of Lewis Moran. He referred to having a contact in the Purana Taskforce and that the fact that Mr Gregory had killed 'the vampire gigolo' for a fee would come out during that trial.³²¹⁹
2279. On 3 April 2007, Mr Black updated Messrs Sandy White and Anderson in relation to Ms Gobbo and former Victoria Police member, Mr Waters, indicating that an inquiry was pending.³²²⁰ It appears that Mr Black had knowledge of the Briars Taskforce investigation.

17 April 2007 – Deactivation Discussion and Risk of Conviction Appeals

2280. On 13 April 2007, Mr Harty Mokbel was arrested and remanded in custody.³²²¹ The following day Ms Gobbo told Mr Anderson that she held a great deal of resentment towards Victoria Police and the Purana Taskforce after she had not been invited to the 'drinks/celebrations' following the arrest.³²²²
2281. On 17 April 2007, an SDU unit meeting took place. Messrs Sandy White and Green were both absent at the commencement of the meeting. Ms Gobbo's frame of mind, following the arrest of Mr Harty Mokbel, was discussed.³²²³
2282. When Mr Sandy White returned to the office there was further discussion about Ms Gobbo between he and Messrs Black, Peter Smith, Richards and

³²¹⁷ Exhibit RC0281 ICR3838 (068), 27 February 2007, 661 VPL.2000.0003.2247.

³²¹⁸ Exhibit RC0281 ICR3838 (069), 7 March 2007, 679 VPL.2000.0003.2265.

³²¹⁹ Exhibit RC0281 ICR3838 (073), 1 April 2007, 758 VPL.2000.0003.2344.

³²²⁰ Exhibit RC0591 Mr Black diary, 3 April 2007, 175 RCMP.0090.0001.0001 @.0175.

³²²¹ Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 April 2007.

³²²² Exhibit RC0284 SML3838, 15 April 2007, 107 VPL.2000.0001.9447 @.9553.

³²²³ Exhibit RC0591 Mr Black diary, 17 April 2007, 176 RCMP.0090.0001.0001 @.0176.

Hardie.³²²⁴ It is apparent from notes of this meeting that the matters raised included:

- Mr David Waters, including reference to a 'secret taskforce' (the Briars Taskforce)
- Ms Gobbo's future as a human source, considering:
 - the recent arrest of Horty Mokbel, Ms Gobbo having involved herself with bail applications despite SDU advice that she should not, and her visiting him in custody
 - the initial goal had been achieved
 - Purana wanted to host a dinner
- Ms Gobbo's deactivation as a human source, considering:
 - Ms Gobbo had been involved in providing privileged advice to clients even after she did so with Mr Cooper, which may be overturned by an appeal court
 - the need to balance the risk of appeals against the duty of care owed to Ms Gobbo, the need for control, and compliance with policy
 - the idea of having some kind of recognition ceremony, perhaps involving the Chief Commissioner of Police, in order to create a break and then deactivate Ms Gobbo.

April 2007 – Petra Interest in Gobbo

2283. Within a week of being told that he was to head the Petra Taskforce, Mr Ryan was working on the investigation. On 1 April 2007, he requested that Purana telephone intercepts be searched in early 2004 in order to locate a telephone call between Mr Carl Williams and Ms Gobbo in which Mr Dale was put onto the telephone. The telephone call was located within hours.³²²⁵
2284. On 19 April 2007, Mr O'Brien attended a presentation to receive his certificate of appointment as a Commissioned Officer. After the presentation he spoke with Mr Overland. Mr O'Brien's diary records that they spoke about '*3838 issues re Petra TF and issues re Carl Williams re Dale statement*'.³²²⁶ Mr O'Brien told the Commission that sometime prior to this, Mr Overland had asked his view about calling Ms Gobbo for examination at an OPI inquiry. Mr O'Brien said he had opposed this, as it would be contrary to policy and compromise her safety. On this day they discussed the matter further, and Mr Overland told him he had decided that Ms Gobbo would be called as a witness to an OPI inquiry.³²²⁷

³²²⁴ Exhibit RC0591 Mr Black diary, 17 April 2007, 177 RCMP1.0090.0001.0001@.0177; Exhibit RC0620 Mr Robert Hardie diary, 17 April 2007, 83-84 VPL.0100.0178.0001 @.0083-.0084.

³²²⁵ Exhibit RC0312 Mr Gavan Ryan diary, 1 April 2007, 118 VPL.0005.0120.0187 @.0304.

³²²⁶ Exhibit RC0933 Mr James (Jim) O'Brien diary, 19 April 2007, VPL.0005.0153.0001 @.003.

³²²⁷ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 51, [271]-[272] VPL.0014.0040.0001 @.0051.

2285. On 22 April 2007, Messrs O'Brien and Sandy White met and discussed the deactivation of Ms Gobbo.³²²⁸
2286. The first documented meeting of the Petra Taskforce 'Management Committee' took place on 24 April 2007. The written update advised:³²²⁹
- investigators selected for the Taskforce included Mr Ryan, Detective Senior Sergeant Shane O'Connell, Detective Sergeant Solon Solomon, and Detective Senior Constable Cameron Davey; the latter two members having previously worked on the investigation into the murders of Christine and Terrence Hodson, called Operation Loris
 - Mr O'Connell was completing the investigation plan which would be submitted at the following management meeting
 - Carl Williams has spoken to investigators and completed a statement, which was not yet signed. Considerable negotiations had taken place with the Williams defence team in relation to the signing of the statement and it was hoped he would sign it that day
 - some matters in Carl Williams' statement had been corroborated, in particular a phone call between Williams and Dale had been located 'on a Purana line'
 - Mr Williams' plea was set down for 27 April 2007, at which Mr Ryan would present a confidential affidavit concerning the statement and a suppression order would be sought in relation to the statement or any other material relating to the investigation
 - it was hoped the legal team would be briefed in the next two weeks.
2287. The draft statement of Mr Carl Williams,³²³⁰ which was signed that day,³²³¹ amongst other matters, referred to the following:
- Ms Gobbo had called Mr Williams and handed the phone to Mr Dale between January and 24 March 2004
 - an occasion after Mr Dale was suspended, that he met with Ms Gobbo at a food court behind her office where she told him to contact Mr Dale
 - in the days thereafter Williams rang Mr Dale from a public telephone near the picture theatres at the Watergardens Shopping Centre in Taylors Lakes where Dale arranged to meet him
 - he was with his father, George Williams, and they drove to a building site in Hillside to meet Mr Dale

³²²⁸ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2019, 51, [273] VPL.0014.0040.0001 @.0051; Exhibit RC0933 Mr James (Jim) O'Brien diary, 22 April 2007, 4 VPL.0005.0153.0001_R1S @.0004; Exhibit RC0292 Mr Sandy White diary, 22 April 2007, 142 VPL.0100.0096.0468 @.0609.

³²²⁹ Exhibit RC0869 Petra Taskforce Weekly Update, 24 April 2007, 472-473 VPL.0100.0046.1867 @.1317-.1318; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 24 April 2007, 13-14 VPL.0100.0129.0001 @.0013-.0014.

³²³⁰ Exhibit RC1763 Assistant Commissioner Luke Cornelius Petra File, 392-402 VPL.0100.0001.5402 @.5793-.5803.

³²³¹ Exhibit RC0247 Statement of Mr Carl Williams, 24 April 2007, 8, 9 MIN.5000.0004.0242 @.0249-.0250.

- once there, he got into the front of Mr Dale's blue ute and they drove to a location and then went for a walk and spoke
- during the meeting with Mr Dale he was asked to assist to 'get Hodson', which he understood to mean killing him, prior to Mr Dale's committal hearing
- Mr Dale said he had someone else on the job but it was taking too long.

2288. Mr Cornelius made handwritten notes on the written update:³²³²

- *TF (Taskforce) to meet with OPI investigators viz Dale and Nicola Gobbo*
- *To brief for hearing with NG (Nicola Gobbo)*

2289. Mr Cornelius stated that Petra initially had dealings with Ms Gobbo as a person of interest in relation to corroborating information from Mr Carl Williams that Mr Dale had contacted Mr Carl Williams to assist in securing a 'hitman' to murder Terrence Hodson.³²³³

2290. Mr Overland stated that the Petra Taskforce needed to corroborate Carl Williams' statement if it was to be of any value, and that they wanted to do that by any means available. He agreed that Ms Gobbo was one of those means.³²³⁴

2291. Mr Overland said that Ms Gobbo was a witness and potentially a person of interest. He said her name would have been mentioned in these meetings because of the issue of how the information report concerning Mr Hodson had got out. It was suspected to have been disseminated through Mr Tony Mokbel, but there was a question of how it got to him. He recalled a suggestion that Ms Gobbo was possibly in the chain and said she had certainly known Mr Hodson was an informer.³²³⁵

2292. It does not appear that an OPI representative attended any meetings of the Petra Taskforce Management Committee until 21 May 2007 when Mr Nolan attended,³²³⁶ and 28 May 2007 when then Assistant Director, Police Integrity, Mr Graham Ashton attended for the first time.³²³⁷

2293. Mr Ashton was on leave at the time of the meeting on 24 April 2007, and Mr Nolan was acting in his stead. On 26 April 2007, Mr Nolan met with Messrs Ryan and O'Connell along with the OPI Director of Legal Services, Greg Carroll to discuss the 'exchange of information'. That day, Mr Nolan also discussed with Mr Brouwer the possibility of OPI hearings for Ms Gobbo and

³²³² Exhibit RC0935 Petra Taskforce Weekly Update, 24 April 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 390-391 VPL.0100.0001.5402 @.5791-.5792; Transcript of Assistant Commissioner Luke Cornelius, 19 December 2019, 11107 TRN.2019.12.19.01.

³²³³ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 7 [45] VPL.0014.0057.0001 @.0007.

³²³⁴ Transcript of Mr Simon Overland, 19 December 2019, 11731 TRN.2019.12.19.01.

³²³⁵ Transcript of Mr Simon Overland, 19 December 2019, 11731 TRN.2019.12.19.01.

³²³⁶ Exhibit RC1934 Petra Taskforce Weekly Management Committee Meeting minutes, 21 May 2007, 420 VPL.0100.0013.0846 @.1265.

³²³⁷ Exhibit RC1934 Petra Taskforce Weekly Management Committee Meeting minutes, 28 May 2007, 411 VPL.0100.0013.0846 @.1256.

Mr Argall. It appears that this decision was deferred until Mr Ashton's return from leave. Mr Nolan briefed Mr Ashton on 30 April 2007.³²³⁸

2294. The OPI had previously engaged Mr Gerald 'Tony' Fitzgerald, to conduct an inquiry into the leaking of information reports associated with the murder of the Hodsons, and he was engaged to preside in the OPI hearings.

24 April 2007 – Briars Interest in Gobbo

2295. On 17 April 2007, Mr Sandy White spoke with Mr Waddell about the Briars Taskforce investigation.³²³⁹ Mr Waddell's diary reveals that he had been reviewing telephone intercepts, which indicated that Ms Gobbo had an involvement with Mr Waters. Mr Waddell was being supervised by Mr Wilson, who had knowledge from his involvement in Operation Khadi (see Chapter 12) that Ms Gobbo was a human source.³²⁴⁰ It is apparent that Mr Waddell had been told to speak with the SDU about the potential use of Ms Gobbo in the Briars Taskforce investigation.

2296. On 24 April 2007, Messrs Black and Anderson attended a meeting with Mr Waddell. There was general discussion about whether the SDU could assist in relation to an existing source, or the possibility to recruit sources. Mr Black noted in his diary:³²⁴¹

(No specific re HS but 3838 into their stated targets)

2297. Mr Black's evidence to the Commission was that Mr Waddell approached the SDU wanting to use Ms Gobbo on their stated targets. He said Mr Waddell had explained to him that the targets of Briars were allegedly corrupt police members who'd been involved in a murder and Briars Taskforce wanted to exploit the relationship to further their case. Mr Black said no to the request.³²⁴²

2298. Following the meeting, Mr Black noted in his diary that his recommendation was that Ms Gobbo be deactivated, with reference to the page of his diary on 17 April 2007 when issues relating to the use of Ms Gobbo and her deactivation, as well as the risk of appeals were discussed at an SDU meeting.³²⁴³

May 2007 – SDU Attempt to Transition Gobbo

2299. On 1 May 2007, Mr Sandy White returned from leave. It appears that Mr Black had been acting controller and he provided Mr Sandy White with an update. This included reference to:³²⁴⁴

- 3838 transition

³²³⁸ Exhibit RC1345 Statement of Local Area Commander John Nolan, 10 December 2019, 9-10 [35] VPL.0014.0101.0001 @.0009-.0010.

³²³⁹ Transcript of Mr Steven Waddell, 13 February 2020, 14017 RC_MPI_13Feb20_provisional.

³²⁴⁰ Transcript of Mr Steven Waddell, 13 February 2020, 14089-14090 RC_MPI_13Feb20_provisional.

³²⁴¹ Exhibit RC0591 Mr Black diary, 24 April 2007, 178 RCMP.0090.0001.0001@.0178.

³²⁴² Transcript of Officer Black, 14 March 2019, 136-138 TRN.2019.03.14.01; Transcript of Officer Black, 23 October 2019, 8205-8206 TRN.2019.10.23.01.

³²⁴³ Exhibit RC0591 Mr Black diary, 24 April 2007, 178 RCMP.0090.0001.0001@.0178.

³²⁴⁴ Exhibit RC0591 Mr Black diary, 1 May 2007, 179 RCMP.0090.0001.0001@.0179.

³²⁴⁴ Exhibit RC0292 Mr Sandy White diary, 2 May 2007, 145 VPL.0100.0096.0468 @.0609.

- Steve Waddell, Operation Briars, including his mobile number.
2300. That afternoon Mr Sandy White spoke with Ms Gobbo's current handler, Mr Anderson, in relation Ms Gobbo. Amongst matters discussed were:
- winding down Ms Gobbo's ongoing deployment, given the objectives had been achieved and Ms Gobbo's emotional stability
 - that deactivation was not possible due to ongoing necessary contact
 - receiving an opinion from a psychologist
 - there being a thanks by Purana, and two meetings, one as a thank you and the other relating to winding her down
 - approval of a meeting with Mr O'Brien the following day.
2301. On 2 May 2007, Mr O'Brien attended a dinner at the Sebel Heritage Golf Course with Ms Gobbo and SDU members, Messrs Sandy White, Green, and Anderson. Mr O'Brien presented Ms Gobbo with a silver pen in appreciation of her assistance to the Purana Taskforce. There was discussion over dinner in relation to:
- the Mokbels, the Karams and those currently in custody
 - Ms Gobbo's future status as a human source
 - historical investigations
 - 'further possible corruption issues'.³²⁴⁵
2302. Mr Sandy White drove Mr O'Brien home, then it seems they also drove to work together the next morning. It is submitted that the evidence indicates that it is likely that they discussed the future of Ms Gobbo.³²⁴⁶

May 2007 – Williams Credibility Problems

2303. On 1 May 2007, a Petra Taskforce Management Committee meeting took place, attended by Messrs Cornelius, Wilson, Hollowood, Ryan and Officer Terrasse (Staff Officer to Mr Overland).³²⁴⁷ The written update indicated that Carl Williams had signed his statement, which was the same as had been presented to the committee the week before. It further noted:

His plea commenced on Friday 27 April and concluded on Monday 30 April 2007. Williams was placed in the witness box given the original statement and he gave an undertaking that the contents were true and he would give evidence relative to the contents. Then against the wishes of his defence team he gave sworn evidence relative to the murders of Lewis Moran, Mark Mallia, Jason Moran

³²⁴⁵ Exhibit RC0464 Statement of Mr James (Jim) O'Brien, 14 June 2020, 52, [274]-[275] VPL.0014.0040.0001 @.0052; Exhibit RC0281 ICR3838 (077), 2 May 2007, 822 VPL.2000.0003.2408.

³²⁴⁶ Exhibit RC0292 Mr Sandy White diary, 2 May 2007, 145 VPL.0100.0096.0468 @.0612.

³²⁴⁷ Exhibit RC0316 Petra Taskforce Weekly Management Committee Meeting minutes, 1 May 2007, 469 VPL.0100.0013.0846 @.1314; Exhibit RC1769 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 1 May 2007, 470-471 VPL.0100.0013.0846 @.1315-.01316; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 1 May 2007, 15-17 VPL.0100.0129.0001 @.0015-.0017; Exhibit RC1770 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 1 May 2007, 376-377 VPL.0100.0001.5402 @.5777-.5778.

and the [REDACTED]. In short his evidence was farcical. I will emailed (sic) copies of it if (sic) the committee if requested. The end result is that he cannot possibly be regarded as a witness of truth and will not be called by the crown in any future proceedings. Judge King has been advised that the information in the statement is valuable but his use as a witness impossible.

2304. Mr Cornelius stated that Mr Carl Williams' evidence lost significant probative value when he provided evidence on his plea, however Petra continued to use material given by Williams to inform inquiries.³²⁴⁸
2305. Mr Ryan also indicated in his update that the existence of the Petra Taskforce was already reasonably well known within the Crime Department and raised whether there was a strategy to release it to the media.
2306. Mr Ashton in his evidence to the Commission agreed that Mr Carl Williams as a witness would 'definitely require significant corroboration.'³²⁴⁹
2307. The update indicated that members were reading material and getting up to speed, and that their first task would be to corroborate as much of Mr Carl Williams' statement as possible. It is submitted that, given that Mr Williams had explicitly stated that Ms Gobbo was the person responsible for putting him in touch with Mr Dale during this period, members overlooking the investigation would have been keen to understand whether Mr Carl Williams could be corroborated in that regard. Such was the importance of this aspect, that Mr Cornelius had noted the plan to summons Ms Gobbo for examination to the OPI in the first Petra Taskforce Management Committee meeting.

3 May 2007 – Overland had Discussed Gobbo with the OPI

2308. On the morning of 3 May 2007, Mr Sandy White met with Mr Biggin. They agreed that they could not yet de-activate Ms Gobbo, but that her use as a human source should be wound down; there should be no tasking of her and no intelligence from her. Mr Sandy White also noted being told by Mr Biggin '*Advised re Brouer (sic) knowledge HS id by D/C Overland*'.³²⁵⁰
2309. Mr Sandy White told the Commission 'I think this was Mr Biggin telling me that Deputy Commissioner Overland had told him that Brouwer knew who the source was.'³²⁵¹
2310. Mr Biggin in his evidence recalled a meeting in which he had requested Mr Overland speak to the OPI, disclose her status, then make her available to them if Ms Gobbo so desired, as a witness or a source.³²⁵²
2311. Mr Overland was asked in evidence about whether he had advised Mr Brouwer about Ms Gobbo's identity as a human source, as was suggested by Mr Sandy White's diary note of 3 May 2007. He responded that he may have done, and said further, '... I would be surprised if I mentioned it to Mr

³²⁴⁸ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 7 [46] VPL.0014.0057.0001 @.0007.

³²⁴⁹ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10729 TRN.2019.12.09.01.

³²⁵⁰ Exhibit RC0292 Mr Sandy White diary, 3 May 2007, 146 VPL.0100.0096.0468 @.0613.

³²⁵¹ Transcript of Mr Sandy White, 2 September 2019, 5333 TRN.2019.09.02.01.

³²⁵² Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7593 RC_MPI_09Oct19_provisional.

Brouwer without Mr Ashton being present'. Mr Overland agreed that if he were to speak to anyone at the OPI about such matters, he would be more likely to speak with Mr Ashton, although he did meet with Mr Brouwer from time to time.³²⁵³

2312. It is submitted that it may be that Mr Sandy White was mistaken in his recording of Mr Brouwer being the person to whom Mr Biggin referred, or that Mr Biggin was mistaken in his recollection of the person from the OPI to whom he understood Mr Overland had spoken. It is not known whether Mr Biggin's assertion to Mr Sandy White was from a recent discussion he had with Mr Overland, or his recollection of events relating to Operation Khadi the previous year when Mr Overland had a meeting with Mr Ashton.
2313. There are further submissions concerning the knowledge of the OPI later in this Chapter.

4 May 2007 – SDU Seek Psychologist Advice about Exit Strategy

2314. On 4 May 2007, Mr Sandy White met with the psychologist whom the SDU had arranged for Ms Gobbo, with whom Ms Gobbo had resisted engagement. They discussed strategies concerning an exit plan for Ms Gobbo from her role as a human source, and to engage her in counselling. Ms Gobbo was to be told that she had not followed instructions in relation to visiting the psychologist, the relationship was going into damage control mode, and there was to be less contact, no tasking and no intelligence provided. They further discussed the hole that would be left in Ms Gobbo's life should contact be ceased, that her personality problems were long standing and not created by her role as a human source and that counselling should continue if she wanted.³²⁵⁴
2315. Mr Sandy White reported the situation to Mr Biggin. He also spoke to Inspector Gavan Ryan, the officer in charge of the Petra Taskforce about receiving a briefing on the taskforce the following week, and about the exit strategy for Ms Gobbo.³²⁵⁵
2316. In the following period, Ms Gobbo persisted in offering assistance in relation to various people whom she knew would be of interest to Victoria Police, including:
- Mr Dale³²⁵⁶
 - Mr Ahmed³²⁵⁷
 - Mr Karam³²⁵⁸

³²⁵³ Transcript of Mr Simon Overland, 19 December 2019, 11729-11730 TRN.2019.12.19.01.

³²⁵⁴ Exhibit RC0292 Mr Sandy White diary, 4 May 2007, 148 VPL.0100.0096.0468 @.0615.

³²⁵⁵ Exhibit RC0292 Mr Sandy White diary, 4 May 2007, 149 VPL.0100.0096.0468 @.0616.

³²⁵⁶ Exhibit RC0284 SML3838, 22 May 2007, 111 VPL.2000.0001.9447 @.9557; Exhibit RC0292 Mr Sandy White diary, 22 May 2007, 21 VPL.0100.0096.0621 @.0641; Exhibit RC0281 ICR3838 (083), 14 June 2007, 893 VPL.2000.0003.2473; Exhibit RC0281 ICR3838 (083), 15 June 2007, 899 VPL.2000.0003.2485; Exhibit RC0509C Transcript of meeting between Nicola Gobbo, Anderson and Fox, 15 June 2007, 274-289, 300-301, 304 VPL.0005.0137.0849 @.1122-.1137, .1148-.1149, .1152.

³²⁵⁷ Exhibit RC0281 ICR3838 (078), 9 May 2007, 830-831 VPL.2000.0003.2416-2417; Exhibit RC0292 Mr Sandy White diary, 10 May 2007, 6 VPL.0100.0096.0621 @.0626.

³²⁵⁸ Exhibit RC0281 ICR3838 (082), 5 June 2007, 876-882 VPL.2000.0003.2462-2468.

- Mr Gatto.³²⁵⁹

9 May 2007 – Gobbo Concerned Over Implications of Williams Statement

2317. On 9 May 2007, Ms Gobbo left a message for her handler Mr Anderson to the effect that she had discovered that Carl Williams had made a statement which nominated her as an associate of Mr Dale. She said it was ‘complete bullshit’ and she was not happy to have discovered this and that the SDU were supposed to be looking out for her and they failed to advise her that Mr Williams had nominated her in the statement. Mr Anderson spoke to Ms Gobbo later in the day, by which time she had calmed down, but nonetheless was disappointed that Mr Ryan would take such a statement. Although she was not aware of the specific comments about her, she said she was confident in the accuracy of the information, but she refused to nominate her source. She was demanding a copy of the statement.³²⁶⁰

May 2007 – SDU Debrief of Ms Gobbo for Petra Taskforce

2318. On 10 May 2007, Mr Anderson updated Mr Sandy White. He was told that Ms Gobbo believed that Mr Williams would ‘make up shit about her and Paul Dale’ and the SDU should have prevented matters concerning her from going into the statement. Ms Gobbo also told Mr Anderson, ‘fuck your stupid dinner’ and said she would post the pen back. During the conversation Ms Gobbo also spoke of the assistance she could provide in relation to Mr Ahmed who had received a summons, although said she was not supposed to communicate with him. She believed she would also receive a summons to the OPI, but she would not talk and was prepared to go to gaol.³²⁶¹

2319. Messrs Sandy White and Anderson agreed that there was a need to talk to Mr Ryan as to:

- the content of the statement and the extent of any concern to Ms Gobbo
- the preparedness of Mr Ryan to meet with Ms Gobbo
- what was needed in relation to Mr Ahmed’s appearance at a compulsory hearing
- whether Ms Gobbo would be cross-examined at a compulsory hearing
- the planned exit strategy for Ms Gobbo.³²⁶²

2320. Later that day, Mr Sandy White met with Mr Ryan. At the meeting:

- Mr Sandy White provided an update of Ms Gobbo’s status and outlined the proposed exit strategy, indicating that the objective was to terminate the relationship without bitterness or recriminations
- Mr Ryan gave a briefing in relation to the Petra Taskforce investigation and indicated that they needed answers to the questions:

³²⁵⁹ Exhibit RC0281 ICR3838 (082), 5 June 2007, 876-882 VPL.2000.0003.2462-2468.

³²⁶⁰ Exhibit RC0281 ICR3838 (082), 9 May 2007, 830-831 VPL.2000.0003.2416-2417.

³²⁶¹ Exhibit RC0281 ICR3838 (082), 9 May 2007, 830-831 VPL.2000.0003.2416-2417; Exhibit RC0292 Mr Sandy White diary, 10 May 2007, 6 VPL.0100.0096.0621 @.0626.

³²⁶² Exhibit RC0292 Mr Sandy White diary, 10 May 2007, 6 VPL.0100.0096.0621 @.0626.

- What did Ms Gobbo know of the involvement of Mr Dale in the burglary, Carl Williams and the Hodsons?
 - Did Ms Gobbo receive anything from Mr Dale and pass it on to anyone else?
 - they discussed Ms Gobbo's awareness of Carl Williams' statement, that she should not have the knowledge that she had about it, and the possibility that they could show her the statement, subject to approval by Mr Overland given the involvement of the OPI
 - they discussed OPI knowledge of Ms Gobbo's identity, the possibility of her being subpoenaed before compulsory hearings, the negative impact that would have upon her relationship with Victoria Police, and Mr Sandy White's belief that there would be no chance of getting the information required
 - Mr Sandy White advised it would be best if Ms Gobbo could be asked about Mr Dale and the Hodsons by the SDU, and Mr Ryan indicated he would seek approval from Mr Overland.³²⁶³
2321. Following that meeting, Mr Sandy White met with Mr Anderson and updated him as to the meeting with Mr Ryan. At the meeting it was agreed that:
- Ms Gobbo would not be told the content of Carl Williams statement, but would be advised that Mr Sandy White had spoken to Mr Ryan and the statement was not a problem
 - Mr Ryan was prepared to meet with Ms Gobbo at any time or place as a show of good faith
 - there was a need to delay the exit strategy pending approval by Mr Overland for Ms Gobbo to be debriefed in relation to Mr Dale and the Hodsons.³²⁶⁴
2322. On 14 May 2007, a Petra Taskforce Management Committee meeting took place, attended by Messrs Overland, Cornelius, Wilson, Ryan and Terrasse. Mr Hollowood was absent.³²⁶⁵ The written weekly update attached an Investigation Plan and Risk Assessment matrix which had been completed and submitted. Part of the investigation plan included determining if registered human sources could be utilised to assist.
2323. On 15 May 2007, Ms Gobbo told the SDU she wanted to meet Mr Ryan, and referred to a civil action she had against Solicitor 2, who owed her money for work she had done for Carl Williams. Mr Sandy White was told by Mr Ryan that he had not yet received a reply from Mr Overland.³²⁶⁶

³²⁶³ Exhibit RC0292 Mr Sandy White diary, 10 May 2007, 6 VPL.0100.0096.0621 @.0627.

³²⁶⁴ Exhibit RC0292 Mr Sandy White diary, 10 May 2007, 6 VPL.0100.0096.0621 @.0628.

³²⁶⁵ Exhibit RC0316 Petra Taskforce Weekly Management Committee Meeting minutes, 15 May 2007, 448 VPL.0100.0013.0846 @.1293; Exhibit RC0876 Petra Taskforce Weekly Update, 14 May 2007, 449-450 VPL.0100.0013.0846 @.1294-.1294; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 14-15 May 2007, 40-49 VPL.0100.0129.0001 @.0040-.0049; Exhibit RC00876 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 14 May 2007, 381-389 VPL.0100.0001.5402 @.5782-.5783.

³²⁶⁶ Exhibit RC0292 Mr Sandy White diary, 15 May 2007, 13 VPL.0100.0096.0621 @.0633.

2324. On 16 May 2007, Mr Sandy White was told by Mr Ryan, that Mr Overland had authorised the questioning of Ms Gobbo in relation to her involvement with Mr Dale, the stolen information report and the Hodson murders.³²⁶⁷
2325. On 21 May 2007, a Petra Taskforce Management Committee meeting took place, attended by Messrs Overland, Blayney, Ryan and Officer Terrasse as well as Mr Nolan from the OPI. Mr Cornelius was absent.³²⁶⁸
2326. That evening, Ms Gobbo met with Messrs Sandy White and Anderson. The ICRs record that during the meeting, amongst other matters, there was discussion about:³²⁶⁹
- the statement by Carl Williams
 - the Dublin Street burglary, including the awareness of Tony Mokbel soon after
 - the relationship between Carl Williams and Mr Dale
 - the relationship between Tony Mokbel and Mr Dale
 - her representation of Terrence Hodson, advising him to assist police, his wanting to meet Mr Dale, and her offering to arrange such a meeting, and Terrence Hodson being 'wired up' during their meeting
 - her relationship with Mr Dale, including:
 - her description of it as a 'bizarre kind of friendship where I got used by him for all sorts of bits and pieces of legal advice – as usual didn't get paid'
 - that following his suspension, they met at a pub where she provided him with highlighted judgements to assist his case
 - that she retained a copy of notes given to her by Mr Dale when he was in custody for the purpose of provision to his instructing solicitor, showing all the cases he was aware of involving Terrence Hodson
 - the telephone call between Ms Gobbo and Carl Williams where Mr Dale came onto the phone and spoke to Carl Williams
 - whether she provided Mr Dale's phone number to Carl Williams, which she denied indicating she believed she would remember if she had
 - her being with Mr Ahmed on the night of the murder of the Hodsons
 - her being the first person Andrew Hodson rang upon discovering the bodies of his parents

³²⁶⁷ Exhibit RC0292B Mr Sandy White diary, 16 May 2007, 13-14 VPL.0100.0096.0621 @.0633-.0634; Exhibit RC0284 SML3838, 16 May 2007, 110 VPL.2000.0001.9447 @.9556; Exhibit RC0281 ICR3838 (079), 16 May 2007, 838 VPL.2000.0003.2424.

³²⁶⁸ Exhibit RC1934 Petra Taskforce Weekly Management Committee Meeting minutes, 21 May 2007, 420 VPL.0100.0013.0846 @.1265; Exhibit RC1770 Petra Taskforce Weekly Update, 21 May 2007, 421-422 VPL.0100.0013.0846 @.1266-.1267; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 21 May 2007, 50-59 VPL.0100.0129.0001 @.0050-59.

³²⁶⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Sandy White, 21 May 2007 VPL.0005.0137.00001; Exhibit RC0284 SML3838, 21 May 2007, 110 VPL.2000.0001.9447 @.9524; Exhibit RC0281 ICR3838 (080), 21 May 2007, 841-849 VPL.2000.0003.2192-2193.

- the stolen information reports and her knowledge of them, including that Tony Mokbel had shown her a 50-page collection of information reports relating to Terrence Hodson
- that she had acted for Mark Smith who was in possession of the information reports when he was arrested, that Tony Mokbel had faxed the documents to Queensland where Mr Smith and John Higgs were based
- ██████████, whom Ms Gobbo indicated she got 'to roll against ██████████',
- ██████████, how best to get him to assist police, the potential for a letter of assistance in relation to his upcoming appeal, recommending any approach be made by Mr Flynn or someone similar, that ██████████ ██████████, and that ██████████ would want to talk to her following any approach.

2327. The transcript of the audio recording of that meeting also includes:

- an acknowledgement that lines were being crossed in relation to information being provided by Ms Gobbo and received by the police.³²⁷⁰

MR SANDY WHITE: But it's interesting that information's already out there anyway.

MS GOBBO: It definitely was out there.

MR SANDY WHITE: But it's out there because Tony Mokbel says it is and also because you've cross-examined plenty of police witnesses that are involved in - - -

MS GOBBO: Yeah.

MR SANDY WHITE: - - - five or more operations - - -

MS GOBBO: And I've got instructions on this. I do remember also telling Bezzina - you know when we first started talking and we used to say, "I can't talk about that stuff," you know, I used to draw the line with some ethicals, now there's no ethical standards any more, it's just all out the window, Sandy. But I remember with Bezzina -- -

MR SANDY WHITE: That's the stuff we love listening.

- Ms Gobbo describing the notes given to her by Mr Dale as 'his instructions', and handing them over being an 'ethical problem':³²⁷¹

MS GOBBO: But I do remember he gave me some notes some notes that he - you know, he - his handwritten notes - - -

MR SANDY WHITE: Mm.

³²⁷⁰ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Sandy White, 21 May 2007, 193-195 VPL.0005.0137.0001 @.0193-.0195.

³²⁷¹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Sandy White, 21 May 2007, 149 VPL.0005.0137.0001 @.0149.

MS GOBBO: - - - his instructions on - on the dirt that he had on Hodson about things he Hodson had done. Now - I mean, I gave those notes to Tony Hargreaves active ones. That's the appropriate place they should go.

MR SANDY WHITE: Yeah.

MS GOBBO: But you never know I might

MR SANDY WHITE: Yeah.

MS GOBBO: 'Cause you knew I was going to say that.

MR SANDY WHITE: I knew you would have kept a copy. But are we gunna be able to look at those?

MS GOBBO: Well, that's another ethical problem, isn't it?

MR SANDY WHITE: Is it? Is it?

MS GOBBO: No, you can look at it. I don't - I think I know where they are but - - -

MR SANDY WHITE: But is it an ethical problem?

MS GOBBO: Nuh, not really. What do I care? It's

MR SANDY WHITE: Would it be fair to say that the contents of those notes would be - would be - oh, well, would they amount to any sort of permissions?

MS GOBBO: Ah - - -

MR SANDY WHITE: 'Cause, you know, if he says, "Hodson's done X, Y, Z," is it because he's done X, Y, Z with him?

MS GOBBO: I honestly would have to - I just remember the only form of operation dictating a few handwritten notes and it just said, Operation whatever - - -

MR SANDY WHITE: Yeah.

- discussion about concerns that Ms Gobbo would be called to a compulsory hearing, as she was aware others such as Mr Ahmed, had been³²⁷²
- that parts of her interactions with Mr Dale were privileged:³²⁷³

MS GOBBO: If I don't trust the process of it not coming out, how am I supposed to answer questions honestly about who I said what to when, and what about the parts of Paul Dale which really should be privileged, but parts aren't.

MR SANDY WHITE: Mm.

³²⁷² Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Sandy White, 21 May 2007, 200-201, 215-222, 228 VPL.0005.0137.0001 @.0200-.0201, .0215-.0222, .0228.

³²⁷³ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Sandy White, 21 May 2007, 202-203 VPL.0005.0137.0001 @.0202-.0203.

MR ANDERSON: What parts are they

MS GOBBO: No, but in the context in which he gave me those notes. That wasn't - he wasn't giving it to me to help anybody else in any other court case. No-one was fighting, Sandy. They were all pleading guilty. They were all doing done deals, they had had pleas by then, they had already entered pleas at committals. There are no - he wasn't giving it to me for that purpose...

- discussion about whether she should go and visit Mr Ahmed before investigators, whether he might find that suspicious, and what advice she would give him.³²⁷⁴

2328. On 22 May 2007, Messrs Sandy White and Anderson briefed Mr Ryan as to the debriefing of Ms Gobbo the previous day. It was agreed that Mr Ryan would brief Mr Overland, and that the SDU could also be available to do so if required.³²⁷⁵

2329. On 23 May 2007, Ms Gobbo spoke to the SDU about looking for Mr Dale's notes. She also asked if the SDU wanted her to contact Mr Dale. She was advised that this would be considered, but not at the present time.³²⁷⁶

2330. On 25 May 2007, Ms Gobbo was asked directly by the SDU if she had slept with or had any intimate relationship with Mr Dale and she responded, 'No'.³²⁷⁷ This is to be contrasted with the evidence of both she and Mr Dale to the Commission.

2331. That day, Mr Sandy White met with Messrs Biggin and Overland. During the meeting.³²⁷⁸

- Mr Sandy White provided a briefing in relation to Ms Gobbo's knowledge surrounding Mr Dale's involvement in the stolen information reports, the Dublin Street burglary and the Hodson murders
- there was an update on the psychological assessment provided of Ms Gobbo (which had been given on 4 May 2007)
- the exit strategy for Ms Gobbo was discussed with Mr Sandy White indicating that the SDU objective was to end the relationship without bitter recriminations either way, and that Ms Gobbo's object had been to have the Mokbels' out of her life
- there was discussion about Ms Gobbo's ongoing viability, specifically in relation to Messrs Waters, Dale and Ahmed, and agreement that she was viable in terms of assisting the Petra and Briars Taskforces

³²⁷⁴ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Sandy White, 21 May 2007, 228-231, 234 VPL.0005.0137.0001 @.0228-.0231, .0234.

³²⁷⁵ Exhibit RC0284 SML3838, 22 May 2007, 111 VPL.2000.0001.9447 @.9557; Exhibit RC0292 Mr Sandy White diary, 22 May 2007, 21 VPL.0100.0096.0621 @.0641.

³²⁷⁶ Exhibit RC0281 ICR3838 (080), 23 May 2007, 852 VPL.2000.0003.2438.

³²⁷⁷ Exhibit RC0281 ICR3838 (080), 25 May 2007, 856 VPL.2000.0003.2442.

³²⁷⁸ Exhibit RC0284 SML3838, 25 May 2007, 111 VPL.2000.0001.9447 @.9557; Exhibit RC0292B Mr Sandy White diary, 25 May 2007, 26 VPL.0100.0096.0621 @.0646.

- it was agreed that Mr Overland would monitor the OPI for any request for Ms Gobbo to be subpoenaed to a compulsory hearing, and that such a hearing was not necessary as Ms Gobbo was willing to assist.

2332. In respect of this last point, Mr Biggin gave evidence that either at this meeting or another meeting, he had requested that Mr Overland speak to the OPI, disclose her status, then make her available to them if Ms Gobbo so desired as a witness or a source.³²⁷⁹

2333. On 26 May 2007 Ms Gobbo indicated she was continuing to look for the notes,³²⁸⁰ then on the night of 27 May 2007, that she had found the notes but was considering the ethical implications of handing them over.³²⁸¹ By the following morning it is submitted that her ethical concerns were put to one side and she told the SDU the documents were ready to be collected.³²⁸² On 29 May 2007, the documents were collected.³²⁸³

28 May 2007 – Ashton Attends First Petra Meeting

2334. On 28 May 2007, a Petra Taskforce Management Committee meeting took place, attended by Messrs Overland, Cornelius, Ashton, Hollowood, O'Connell and Officer Terrasse.³²⁸⁴ This appears to be the first Petra Taskforce meeting attended by Mr Ashton. The written update and minutes indicated that:

- investigators had spoken with Mr Ahmed, the principle target of Operation Galop, who had stated that the cash and drugs in the house belonging to Tony Mokbel. This had been disclosed, but suppressed at a previous court hearings
- there were [REDACTED] scheduled on 11 June 2007 in relation to a number of persons relevant to the investigation
- Mr Ashton was to make arrangements for the Taskforce to access material related to the OPI investigation of the leaking of information contained in IR44.

2335. There was no written update or minutes taken acknowledging the debriefing of Ms Gobbo by the SDU in relation to matters very relevant to Petra Taskforce investigations. It is submitted that the lack of written update could be explained by the absence of Mr Ryan on leave and the update having been authored by Mr O'Connell. It is also likely to be an acknowledgement that such updates may be seen by those without knowledge of Ms Gobbo's status as a human source and thus left out to protect that status. Perhaps for the same reasons, such matters would not be discussed in front of those who were not supposed to be aware of Ms Gobbo's status.

³²⁷⁹ Transcript of Mr Anthony (Tony) Biggin, 9 October 2019, 7593 , RC_MPI_09Oct19_provisional.

³²⁸⁰ Exhibit RC0281 ICR3838 (080), 26 May 2007, 860 VPL.2000.0003.2446.

³²⁸¹ Exhibit RC0281 ICR3838 (081), 27 May 2007, 862 VPL.2000.0003.2448.

³²⁸² Exhibit RC0281 ICR3838 (081), 28 May 2007, 862 VPL.2000.0003.2448.

³²⁸³ Exhibit RC0281 ICR3838 (081), 29 May 2007, 865 VPL.2000.0003.2451.

³²⁸⁴ Exhibit RC1934 Petra Taskforce Weekly Management Committee Meeting minutes, 28 May 2007, 411 VPL.0100.0013.0846 @.1256; Exhibit RC1770 Petra Taskforce Weekly Update, 28 May 2007, 412-417 VPL.0100.0013.0846 @.1257-.1258; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 28 May 2007, 62-65 VPL.0100.0129.0001 @.0062-.0065; Exhibit RC1769 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 28 May 2007, 378-380 VPL.0100.0001.5402 @.5779-.5780.

2336. Certainly, it is submitted, there was opportunity for this, especially so where meetings were scheduled for half an hour, and minutes indicate that a meeting ran for less than this time. Mr Ryan in his original evidence to the Commission was certain that Ms Gobbo's status as a human source was not kept from Messrs Ashton and Cornelius.³²⁸⁵ Evidence was given by Mr Hollowood that when he attended meetings he would enter and leave with investigators, whilst the committee of Messrs Overland, Ashton and Cornelius (and later Moloney) remain following an update, presumably to discuss matters. Likewise, Mr Ashton spoke of Mr Overland asking him to remain behind after meetings.³²⁸⁶
2337. Messrs Ashton and Cornelius both told the Commission they were not told about this debriefing of Ms Gobbo, with both indicating they were not informed about her status as a human source until sometime later.³²⁸⁷
2338. Mr Ashton, however, stated that at this meeting he became aware that Carl Williams had provided a statement which had referred to Ms Gobbo by name.³²⁸⁸ It is submitted that this suggests that there had been some discussion of her at the meeting, or with Mr Overland in proximity to the meeting.
2339. Mr Ashton, who maintained he was told about Ms Gobbo's status on 19 July 2007, the day of her appearance before the OPI, told the Commission that at the time he became aware that Ms Gobbo was a human source, he connected her with the registered number '3838'. He said he did this because that was the only human source who had been mentioned in Petra Taskforce meetings to that point. The only involvement Ms Gobbo had as a human source in relation to the Petra Taskforce on which the Petra Taskforce Management Committee might have been briefed prior to 19 July 2007 (perhaps aside from the concerns that arose following the summons being issued upon Ms Gobbo by the OPI), was the debriefing of her by the SDU in May 2007. It would follow that if Mr Ashton had made the connection that Ms Gobbo was '3838' he must have been briefed about this. When one considers the nature of the information obtained from Ms Gobbo during that debriefing, it would have been apparent to Mr Ashton in any case that Ms Gobbo was the source of the information and was therefore a human source.
2340. Further, if it was the case that Mr Overland had told Mr Brouwer that Ms Gobbo was providing assistance to police, as Mr Sandy White had been told on 3 May 2007, it would not make sense that Mr Overland had not spoken to Mr Ashton about the matter either at the same time, or sometime prior.

28 May 2007 – No More Exit Strategy

2341. On 28 May 2007, a Monthly Source Review took place. The update noted that Ms Gobbo was engaged in representing Mr Karam in a trial. Ms

³²⁸⁵ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 16-17 [95-96] VPL.0014.0039.0001 @.0016-.0017.

³²⁸⁶ Transcript of Superintendent Paul Hollowood, 12 February 2020, 13873 RC_MPI_12Feb20_provisional; Transcript of Chief Commissioner Graham Ashton, 11 December 2019, 11013 TRN.2019.12.11.01.

³²⁸⁷ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10730-10731 TRN.2019.12.09.01.

³²⁸⁸ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 9 [83] GLA.0006.0001.0001 @.0009.

Gobbo's risk was considered to remain high by virtue of her gangland associates and assistance to the police about them. Ms Gobbo's value was also considered to remain high, particularly in relation to 'corruption issues and murder investigation involving serving and ex police' (the Briars and Petra Taskforces). The pending arrest of Tony Mokbel in Greece was contemplated, as there would need to be a decision as to what, if any, involvement, Ms Gobbo might have with him. It was recommended that the SDU continue to manage Ms Gobbo.

2342. There was a change in outlook as to Ms Gobbo's ongoing use following the commencement of the Briars and Petra Taskforces. Whereas her continued management had been for the purpose of protection relating to her exposure in court proceedings, such was the importance placed on establishing whether police members or former police members had been involved in underworld murders, that Ms Gobbo's information was once more to be used.

5 June 2007 – Gobbo Uncovers the World's Largest Ecstasy Shipment

2343. On 5 June 2007, Ms Gobbo met with Messrs Fox and Anderson in person. During the meeting she handed them documents which would lead to the identification of a shipment containing what would be at the time the world's largest seizure of ecstasy. Mr Karam had given Ms Gobbo documents for safekeeping in the course of her representing him at trial, which she copied before returning to him.

2344. The information contained in the documents would prove irresistible to the SDU in terms of dissemination, although a dilemma arose as to how to release the information without compromising Ms Gobbo as a human source, as at the time there was a level of distrust and antagonism between Victoria Police and the AFP. In the weeks thereafter, the SDU disseminated the information to the Australian Customs Service (ACS), in such a way that it would lead to the AFP discovering the shipping container, without them realising that the information had come from a human source.

5 June 2007 – Discussion as to Interference with the Proper Administration of Justice

2345. Also, at the meeting on 5 June 2007, Ms Gobbo told her handlers that she was now representing Mr Garry Gibbs³²⁸⁹. Mr Gibbs was the uncle of Renate Mokbel, and had been arrested and charged with dealing with the proceeds of crime in September 2006, after cash and jewellery belonging to Milad and Renate Mokbel was dug up in his backyard.³²⁹⁰ Ms Gobbo told her handlers that [REDACTED]

2346. During the conversation, Ms Gobbo referred to the fact that she had originally provided police with the information about the money and jewellery being in the backyard before Mr Cooper had told them about it. Ms Gobbo

³²⁸⁹ Exhibit RC0281 ICR3838 (082), 5 June 2007, 879-880 VPL.2000.0003.2465-2466.

³²⁹⁰ County Court of Victoria, 'Reasons for Sentence', *R v Gibbs, Garry* [2007] VCC 1809 (revised), 7 December 2007, 2, COR.1011.0001.0026 @.0002.

[REDACTED]

went on to state that if one were to read Mr Cooper's statements, they would see they contained the exact same phrases that she had used with the SDU previously.³²⁹²

2347. This led to discussion as to what might occur if Ms Gobbo's role as a human source was exposed, the ethical dilemmas involved and concern by the SDU that Ms Gobbo stop representing people when she had a conflict of interest:

MS GOBBO: Mm, mm. Anyway might have to get you to

MR ANDERSON: Never really asked you this stuff just like that

MS GOBBO: Well, I'm fucked, ethically I'm ---

MR ANDERSON: You can't - we've been through - I've spoken to you about this before, it's the exact - the exact thing about

MS GOBBO: But you guys must sit around and say I'm ethically – I am fucked up.

MR ANDERSON: Oh, fifty times over, but – but I know it will piss you off when I say this - that's a decision you've gotta make now isn't it? But I guess it's only a problem if you ever get caught.

MS GOBBO: Precisely.

MR ANDERSON: Isn't it? It's not a problem before then.

MS GOBBO: And I wouldn't put you as the person if I was caught.³²⁹³

...

MS GOBBO: All jokes aside, if I got - if this all came out, not through me, 'cause it won't come out from me. But if it all came out, I'm either gunna be – I don't know if they'd have a bullet in my head very quickly or I'm never gunna be able to practice law in the country of Australia again, and I'll have to be in WITSEC.

MR ANDERSON: Mm.

MS GOBBO: Either way, someone's gotta pay for that.

MR ANDERSON: Baddestthat's ever happened.

MS GOBBO:

MR ANDERSON: Bad bad.

³²⁹² Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 274 VPL.0005.0137.0351 @.0624.

³²⁹³ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 274-275 VPL.0005.0137.0351 @.0624-.0625; Exhibit RC0303 Audio recording of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 3:49:00-3:49:43 VPL.2000.0002.4248.

MS GOBBO: *It would be pretty funny though.*

MR ANDERSON: *Oh no, I can't see the humour. Sorry, maybe we'll look back and laugh on it, "Remember that day we fucked everything up?"*

MS GOBBO: *No, and*

Mr ANDERSON: *Let's not have that day.*

Ms GOBBO: *--- imagine how many clients will sue me for ethical breaches, for - - -*

MR FOX: *Mm.*

MS GOBBO: *Imagine what would happen in the profession. I have to - - -*

MR ANDERSON: *Well, you – and I know that there's been so many already, and I don't want more.*

MS GOBBO: *No, I don't I don't let it cross my mind.*

MR ANDERSON: *No, but you don't want more either, do you? Like, you don't need to keep - - -*

MS GOBBO: *But it happens, every day it happens.*

MR ANDERSON: *..... but I know you feel a bit pissed off when I try and do it, but we don't want more.*

MS GOBBO: *I know.*

MR ANDERSON: *It's not something we want to keep shitting in the face of the law and the system and - - -*

MS GOBBO: *I haven't broken the law, though.*

MR ANDERSON: *.....*

MR FOX: *.....*

MR ANDERSON: *I don't think you've broken the law as such but if, yeah, if it ever come out, it would be frowned upon, wouldn't it?*

Mr FOX: *That's what I'm saying, yeah.*

Mr ANDERSON: *And that's where I always come back to ya, 'How do you feel about it?' And that's where you come back and..... and stuff like that and I piss you off by saying - - -*

MS GOBBO: *Yeah, but then - look, I still think - - -*

MR ANDERSON: *- - - you make the decision about it.*

MS GOBBO: *Look, there's a difference between someone sitting there and saying they've - somebody fucked up 'cause they had too much ice and they went to the wrong address – sorry they hijacked a car with people in it at a fast food restaurant - - -*

MR ANDERSON:

MS GOBBO: - - - then went to the wrong add – went to the wrong address, and then to burgle the joint anyway.

MR ANDERSON: Mm.

MS GOBBO: There's a difference between being told that, which is not covered by any ethical privilege whatsoever - - -

MR FOX: Mm.

MR ANDERSON: Mm.

MS GOBBO: - - - as opposed to some of things Lewenberg told me on Sunday night.³²⁹⁴

MR ANDERSON: Yep.

MS GOBBO: Which included, you know, where money is coming from or plans of attack and - I mean, there's a difference between what's covered by legal professional privilege, and what isn't.

MR ANDERSON: Yep.

MS GOBBO: And that's just something I've gotta deal with.

MR ANDERSON: Well, the first thing you've got, I mean, criminal offences, you don't have to legal defences and stuff like that, well, I guess we've gotta - to a degree, we're happy to leave that alone too, that's the - yeah.

MS GOBBO: No, you're not, 'cause it's too hard. Remember, a year and a half ago it was too hard. At the very beginning of this, it was, No, I'm not gunna talk about that, and then - forget it, it's just too hard. You may as well hear everything.

MR ANDERSON: Yeah well, you know, I baulk at some of these things. I mean

MS GOBBO: You don't say, 'Shut up, I don't want to hear that'.

MR ANDERSON: Well, I don't want to be rude, but we do end up having a bit of a tussle about how it's gunna - - -

MS GOBBO: About what?

MR ANDERSON: About that, don't we? About - - -

³²⁹⁴ Earlier in the conversation Ms Gobbo referred to having seen Mr Lewenberg the previous Sunday night where they discussed trial issues, presumably relating to Milad Mokbel whom he was representing. Ms Gobbo reported that Mr Lewenberg believed there to be an informer as police were getting information too quickly, and that he had plans to issue subpoenas in order to pursue this matter: see Exhibit RC0281 ICR3838 (082), 5 June 2007, 880 VPL.2000.0003.2466.

MS GOBBO: Yeah.

MR ANDERSON: - - - the ethical dilemmas and stuff like that, so - - -

MS GOBBO: Yeah, but you don't - I'm saying you don't say, "Hang on, we don't wanna know that."

MR ANDERSON: No, no, no, no.

MS GOBBO: Well, there you go.

MR ANDERSON: I'm listening to what you have to say – but then we generally come back when it's the decision-making time.

MS GOBBO: Or conflicts of interest, I mean, how - how can you - I mean - - -

MR ANDERSON: Now, the area that we don't want to get into – is an issue that I'm very - I am vocal about this bit, is you can't lag them and represent them, you know advise them, represent them, and appear in court.

MS GOBBO: And - - -

MR ANDERSON: That's - that's a bad circle.

MS GOBBO: Agrum, I identified him from a bloody - - -

MR ANDERSON: Now, that's - you should have had that agreement from the beginning though, but I'm saying - I - I saying that

MS GOBBO: On the new people?

MR ANDERSON: Yeah, like - like, Horty, for example. It would be just - the headfuck that would create - forget about the ethical problems. But we are saying to you – I probably 'I don't wanna hear about it', but I am saying to you, you should avoid it.

MS GOBBO: Victoria Police sitting on the fence
.....

MR ANDERSON: Well, no, I think we're probably more than sitting on the fence now with this, it's representing them, we don't want you representing them.

MS GOBBO: How come you're laughing?

MR FOX: Hey?

MS GOBBO: How come you're laughing nervous laugh
..... yeah, I know, that's a nervous laugh.

MR ANDERSON:

*MR FOX: It's not a nervous laugh, it's a knowing - it's a knowing laugh.*³²⁹⁵

2348. The Commission received evidence that the SDU members were open and frank in their discussion of issues at their regular unit meetings.³²⁹⁶ On 24 July 2006 the SDU had a discussion concerning the continued use of Ms Gobbo within the SDU which led to Mr Black recording concern about the possibility of a Royal Commission. Again, on 17 April 2007, Mr Black recorded discussion concerning the possibility of appeals and convictions being overturned and the need to deactivate Ms Gobbo.

2349. **On the evidence, it is open to the Commissioner to find that in their 5 June 2007 meeting with Ms Gobbo, Messrs Anderson and Fox:**
- a. **understood that Ms Gobbo continually acted for those with whom she had a conflict**
 - b. **understood that Ms Gobbo's conduct would not be condoned by a court**
 - c. **understood that Ms Gobbo's conduct deprived such people of a fair trial**
 - d. **whilst this understanding may have caused them discomfort and they sought to discourage Ms Gobbo from the relevant conduct, they acquiesced to it and in doing so effectively condoned it.**

5 June 2007 – Mokbel Arrest in Greece

2350. Later in the same meeting on 5 June 2007, at 11:12pm, Ms Gobbo was told that Tony Mokbel had been arrested in Greece, and that 23 raids were in the process of being conducted. She was told that Jeffrey Jamou was in custody and had asked for her, and that it was the SDU's 'preference' that she did not represent any of the persons arrested that night.³²⁹⁷

MR ANDERSON: Yeah, before you ring him, maybe we'll discuss it. Jeffrey Jamou's in custody - - -

MS GOBBO: Oh - - -

MR ANDERSON: - - - and he's asked for you.

MS GOBBO: Yeah.

MR ANDERSON: Now, our thoughts are obviously with this one, I'm probably going to be very strong about this, is we would like you not to be involved in representing at all - any of these fellas. You'll

³²⁹⁵ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 276-282; VPL.0005.0137.0351 @.0626-.0632; Exhibit RC0303 Audio recording of meeting between Ms Nicola Gobbo, Mr Anderson and Mr Fox, 5 June 2007, 3:49:55-3:54:13 VPL.2000.0002.4248.

³²⁹⁶ Exhibit RC0622A Statement of Mr Black, 5 June 2019, 21-22 COM.0025.0005.0001 @.0021-.0022.

³²⁹⁷ Exhibit RC0281 ICR3838 (082), 5 June 2007, 876-882 VPL.2000.0003.2462-2468; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 334-336 VPL.0005.0137.0351 @.0684-.0686; Exhibit RC0303 Audio recording of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 4:41:00-4:43:05 VPL.2000.0002.4248.

probably get a phone call from Jamou and up to - there's gonna be 20 people that are arrested in - in this series of that one was a bit early, but I did get a text message earlier - earlier saying that they'll - that so, yeah, 23 raids, 20 people are going to be arrested, Jeffrey Jamou's the only one so far that - now, how many they've got done and where they're at, I don't know.³²⁹⁸

...

MS GOBBO: Yeah, yeah, yeah – well Jamou – Jamou was being looked at, I mean, I was talking about him massively - - -

MR ANDERSON: You've mentioned Jamou - yeah, Jamou before. Last year you mentioned him, so - - -

MS GOBBO: I mentioned him, he was one of the first people I talked about because he was Tony's - he was, you know, very, very close to Tony, in fact, with Tony, during his trial.³²⁹⁹

...

MS GOBBO: Why doesn't anybody want me to be talking to anybody?

MR ANDERSON: Oh, no, just 'cause it caused a - probably the headfuck that it's gonna cause, and - and your involvement in the earlier part of it is probably to have some - - -

MS GOBBO: But no-one ever told me not to before. How come - why is this different?

MR ANDERSON: No, I think it's been - this has probably been a - a changing thing. It's something that we're probably all starting to talk about is - it's probably not appropriate for you to be on this end of it, with - - -

MS GOBBO: Well, that's - - -

MR ANDERSON: - - - particular people, that's all. And, like - well, ultimately, you can make your own decisions - - -

MS GOBBO: Mm.

MR ANDERSON: - - - but, I guess, if you're asking me and, like, with the other times, it - - -

³²⁹⁸ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 336 VPL.0005.0137.0351 @.0686; Exhibit RC0303 Audio recording of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 4:42:19-4:43:05 VPL.2000.0002.4248.

³²⁹⁹ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 337-338 VPL.0005.0137.0351 @.0687-.0688; Exhibit RC0303 Audio recording of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 4:43:46-4:44:13 VPL.2000.0002.4248.

MS GOBBO: Apparently it's just unusual that you're not sitting on the fence, so - - -

MR ANDERSON: Oh, no, no, I don't think we sit on - - -

MS GOBBO: Oh - - -

MR ANDERSON: - - - the fence.

MS GOBBO: - - - cleared.

MR FOX: Oh, there you go.

MS GOBBO: - - - got him off. What's-his-name got him off.

MR ANDERSON: Nah, I don't think we sit on the fence - I know you say we sit on the fence. What we do is when you ask and I give it back to you, you bring up the ethical dilemma and I say you answer your own question - - -

MS GOBBO: Mm.

MR ANDERSON: - - - right, so - and that's because - well, ultimately, again it comes back to you. I'm - we're - you gotta make your own decisions about - about this one, yeah, maybe it is a bit stronger – we don't want you to be involved.³³⁰⁰

2351. Ms Gobbo was provided with a list of names for those being arrested. She expressed her belief that Tony Mokbel would seek her out for representation.³³⁰¹

June 2007 – Purana Obtain Mokbel AFP Brief of Evidence from Gobbo

2352. On 5 June 2007, following Ms Gobbo being informed of the arrest of Tony Mokbel in Greece, there was discussion of criminal matters which were still outstanding. Ms Gobbo referred to Tony Mokbel's arrest by the AFP in October 2005 for incitement to import a commercial quantity of MDMA. She had represented Mr Mokbel upon his arrest. Ms Gobbo said she still had the hand-up brief.³³⁰²

2353. By late May 2007 there were urgent preparations underway within the Purana Taskforce for the arrest of Tony Mokbel. Mr O'Brien was co-ordinating preparation of material for that event, and Mr Rowe spent most of his time on that matter. Mr Rowe had previously obtained a small amount of material from the AFP in relation to their Operation Orbital, for which Tony Mokbel had been arrested in October 2005. This was for incorporation into the Victoria Police brief of evidence for Operation Quills.³³⁰³

³³⁰⁰ Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 396-398 VPL.0005.0137.0351 @.0746-.0748; Exhibit RC0303 Audio recording of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 5:31:48-5:33:03 VPL.2000.0002.4248.

³³⁰¹ Exhibit RC0281 ICR3838 (082), 5 June 2007, 881 VPL.2000.0003.2467.

³³⁰² Exhibit RC0281 ICR3838 (082), 5 June 2007, 881 VPL.2000.0003.2467; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 366-372 VPL.0005.0137.0351 @.0716-.0722.

³³⁰³ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 22 [156-159] VPL.0014.0035.0001 @.0022.

2354. Upon the arrest of Mr Mokbel, there were tight deadlines for the filing of material in his extradition proceedings. Mr Rowe understood that if the material was not comprehensive, and certain offences not included in the extradition materials, there was a risk Mr Mokbel could not be prosecuted for those offences should he be returned to Australia. There was also time pressure as the material had to be translated into Greek. Mr Rowe spoke to a counterpart at the AFP a number of times about accessing the further material he required to supplement the Operation Quills brief, and was told that managerial approval would be sought at the AFP for release of the material.³³⁰⁴
2355. On 19 June 2007, still not having received the required information from the AFP and the situation becoming urgent, Mr Rowe approached Mr O'Brien and sought and obtained approval to obtain a copy of Mr Mokbel's AFP brief from Ms Gobbo.³³⁰⁵
2356. On 21 June 2007, Mr Rowe spoke with Ms Gobbo and arranged to collect the brief from her. He picked up the brief on 22 June 2007 and returned it on 18 July 2007.³³⁰⁶
2357. Extradition material was filed in Greece in the first week of July 2007. This enabled an arrest warrant to be issued and the process of extradition to commence.³³⁰⁷
2358. The extradition material included an 'Investigator's Affidavit' pursuant to Article 5 of the Extradition Treaty on Extradition between Australia and the Hellenic Republic, which was sworn by Mr O'Brien.³³⁰⁸ The affidavit requested the surrender of Tony Mokbel for:
- the murder of Lewis Moran in 2003
 - drug related offences in 2000 (Operation Kayak)
 - drug related offences between 2001 and 2002 (Operation Landslip)
 - drug related offences between 2002 and 2003 (Operation Matchless)
 - drug related offences between 2003 and 2006 (Operation Posse)
 - drug related offences in 2005 (Operation Quills)
 - drug related and perversion of justice offences between 2006 and 2007 (Operation Magnum)
 - perversion of justice offence between 2004 and 2005 (Operation Matchless)

³³⁰⁴ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 22-23 [160-162] VPL.0014.0035.0001 @.0022-.0023.

³³⁰⁵ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 23 [163] VPL.0014.0035.0001 @.0023.

³³⁰⁶ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 23 [165] VPL.0014.0035.0001 @.0023.

³³⁰⁷ Exhibit RC1750 Purana Taskforce Update, 10 July 2007, 1 VPL.0099.0002.0099 @.0099

³³⁰⁸ Exhibit RC1708 Email involving Tracey Smith, James (Jim) O'Brien, Gavan Ryan and James (Jim) Coghlan, 2 October 2007-3 October 2007 VPL.6111.0014.3749; Exhibit RC1653 Affidavit of Mr James (Jim) O'Brien, 21 June 2007 VPL.6111.0014.3753.

- the murder of Michael Marshall in 2003.
2359. In the affidavit, at paragraph 119, which concerned the offence of attempting to pervert the course of justice, Mr O'Brien referred to a meeting on 2 June 2005, where it was alleged that Mr Mokbel had made a statement evidencing the offence. In his affidavit, Mr O'Brien referred to Ms Gobbo by name describing her as one of Mr Cooper's legal representatives.³³⁰⁹
2360. In the affidavit at paragraph 135, which concerned the surrender offence being the murder of Michael Marshall, Mr O'Brien referred to a meeting between Ms Gobbo and Mr Andrews, which Mr Andrews described in his statement dated 7 March 2006 as follows:³³¹⁰
68. *"While I was at the custody centre I was visited by my barrister Nicola Gobbo. I asked her to pass on a message to Carl and Tony and I rubbed my fingers together and mentioned ██████████ ..."*
(emphasis added)
69. *A couple of days later I spoke to Carl Williams. He was actually at ██████████. During this call ██████████ or him told me that he had given ██████████ some money. I later discovered that it was only \$1500. I have not received any more of the money promised"*
2361. The significance of the paragraphs was no doubt designed to implicate Mr Williams, but in doing so suggested that Ms Gobbo had passed on a message from an alleged killer that money owed to him for the killing should be paid instead to his mother.
2362. When Mr O'Brien referred to this meeting in his extradition affidavit, he obviously was not inclined to mention Ms Gobbo by name, and described the meeting as follows:³³¹¹
- The day after Andrews was arrested for the Marshall murder he asked his solicitor to pass on a message to Carl Williams and Mokbel that he wanted them to give the money he was owed to Andrews' ██████████.*
(emphasis added)
2363. An extradition hearing took place in Greece on 24 July 2007. On 31 July 2007, Tony Mokbel's extradition from Greece was authorised.³³¹²
2364. Mr Rowe persisted with requests to obtain the brief from the AFP. On 26 June 2007, a refusal was given, and later an indication that a further request should be made. On 30 July 2007, Mr Rowe spoke further about the issue with Mr O'Brien and it was determined that Mr O'Brien would raise the issue with the Victorian DPP, in order that he could raise it with the Commonwealth DPP. Shortly thereafter Mr Rowe was advised that access had been arranged to the brief, however Mr Rowe was only permitted to inspect the brief and request specific items for copying. He ultimately

³³⁰⁹ Exhibit RC1653 Affidavit of Mr James (Jim) O'Brien, 21 June 2007 VPL.6111.0014.3753 @ 3788.

³³¹⁰ Exhibit RC0637 Statement of unnamed, 7 March 2006, 15, VPL.0100.0001.4784 @.4862.

³³¹¹ Exhibit RC1653 Affidavit of Mr James (Jim) O'Brien, 21 June 2007 VPL.6111.0014.3753 @ 3783

³³¹² Exhibit RC1750 Purana Taskforce Update, 24 July 2007, 1 VPL.0099.0002.0222 @.0222; Exhibit RC1750 Purana Taskforce Update, 31 July 2007, 1 VPL.0099.0002.0306 @.0306.

obtained further material from the AFP on 2, 3 and 6 August 2007 which he added to the Operation Quills brief.³³¹³

June 2007 – Gobbo Provides Information about Mokbel

2365. On 14 June 2007, a Monthly Source Review occurred. The update indicated that Ms Gobbo had been asked to assist Tony Mokbel in relation to his extradition issues, and had been advised not to be involved due to conflict issues; that Ms Gobbo had advised that Milad Mokbel would possibly plead guilty; and that Ms Gobbo was representing Mr Karam in an importation trial. Ms Gobbo was considered to be of very high value, given her recent intelligence about the ecstasy importation which was not able to be ignored. This was recognised to present significant additional risk, noting that any actioning by the AFP might compromise her. Further risk was noted in relation to Tony Mokbel's attempts to employ Ms Gobbo to represent him in his extradition hearings. It was recommended that the SDU continue to manage Ms Gobbo.
2366. Ms Gobbo had reported speaking with Tony Mokbel in Greece on 12 June 2007. In the ensuing months she reported to the SDU on that and subsequent conversations, details of strategies to challenge extradition, tactics to defend and delay those proceedings. She also reported on conversations with Professor Mirko Bagaric, who had been engaged by Tony Mokbel to assist in defending the extradition application, including as to payments being made for Tony Mokbel's legal representation. On 19 July 2007, the SDU determined that 'legal defence strategies' for Mr Mokbel would not be disseminated, although Ms Gobbo continued to provide such information. Mr Fox, as Ms Gobbo's handler during this period, in a number of instances thereafter, recorded information provided by Ms Gobbo, and that it was not disseminated because of legal professional privilege issues. The nature of the material indicates that Ms Gobbo was having legal discussions and included reference by her to having access to documents filed in relation to the extradition proceedings.³³¹⁴ On 25 July 2007, Ms Gobbo wrote a fee in relation to her 'Brief to advise, conference, examine extradition material and brief foreign lawyers',³³¹⁵
2367. Whilst Ms Gobbo was told that information as to defence strategies would not be disseminated, she was told that her intelligence in relation to possible proceeds of crime offences would be passed on.³³¹⁶
2368. It is submitted that, at least some of the information being provided by Ms Gobbo was being reported to investigators, and making its way to Mr Overland and others during Purana Taskforce updates and meetings, for example that:

³³¹³ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 23 [167-169] VPL.0014.0035.0001 @.0223.

³³¹⁴ Exhibit RC0281 ICR3838 (091), 19 July 2007, 1041 VPL.2000.0003.2627; Exhibit RC0281 ICR3838 (091), 22 July 2007, 1044 VPL.2000.0003.2630; Exhibit RC0281 ICR3838 (097), 29 August 2007, 1171. VPL.2000.0003.2757; Exhibit RC0281 ICR3838 (098), 1 September 2007, 1185 VPL.2000.0003.2771; Exhibit RC0281 ICR3838 (103), 6 October 2007, 1276 VPL.2000.0003.2862.

³³¹⁵ Exhibit RC1568 Ms Nicola Gobbo fee book, 25 July 2007, 7 MIN.5000.7000.0103 @.0109.

³³¹⁶ Exhibit RC1134 Legal Conflict Report, 4 September 2014 VGSO.2000.1501.0231; Exhibit RC0281 ICR3838 (092), 23 July 2007, 1048 VPL.2000.0003.2634.

- money was paid to Tony Mokbel's instructing solicitor, Alastair Grigor³³¹⁷
- Mr Grigor attended at the prison to attempt to take statements from various named individuals to assist Tony Mokbel's defence of his extradition proceedings³³¹⁸
- Tony Mokbel was attempting to raise funds through a mortgage on his aunt's house in order to finance his brother, Kabalan Mokbel's trial in October³³¹⁹
- Mr Bagaric had been promised payment upon his arrival in Greece.³³²⁰

June 2007 – Gobbo Keen to Assist Police regarding Dale

2369. On 14 June 2007, Ms Gobbo again asked whether the police wanted her to communicate with Mr Dale and she was again told not at this time.³³²¹
2370. On 15 June 2007, Ms Gobbo met with Messrs Sandy White, Anderson and Fox of the SDU. During the meeting there was further discussion in relation to Mr Dale. It was apparent that Ms Gobbo had stated prior to the meeting that she would be prepared to give evidence and wear a wire. Mr Sandy White queried this, indicating there would be issues as to how she came to be recording Mr Dale and stating that it would inevitably come out that she had been tasked by the police. Ms Gobbo indicated that she did not think that 'lagging in a copper' would be an issue, that the community would not be judgmental, and it would not affect her business. Ms Gobbo was asked what the point would be of her seeing Mr Dale. She responded that he would not be suspicious, and although he would not talk openly to her straight away, he may later on. Ms Gobbo was told it was too early 'to start' in relation to Mr Dale and they could deal with it later on, but that if he made contact with her, they were happy for her to meet with him in order to keep the relationship alive. Mr Sandy White indicated that if there was an opportunity that Mr Dale might talk to Ms Gobbo about his involvement with the Hodsons, at the right time they would need to have a long talk so Ms Gobbo knew what she could and couldn't say.³³²²

25 June 2007 – Petra Joint Agency Agreement Signed

2371. The signing of the Petra Taskforce Joint Agency Agreement was prompted by a legal advice from a solicitor at the OPI which indicated a legislative

³³¹⁷ Exhibit RC1750 Purana Taskforce Update, 17 July 2007, 1 VPL.0099.0002.0163 @.0163; Exhibit RC0281 ICR3838 (089), 15 July 2007, 1017 VPL.2000.0003.2603.

³³¹⁸ Exhibit RC1750 Purana Taskforce Update, 17 July 2007, 1 VPL.0099.0002.0163 @.0613; Exhibit RC0281 ICR3838 (089), 15 July 2007, 1017 VPL.2000.0003.2603.

³³¹⁹ Exhibit RC1750 Purana Taskforce Update, 17 July 2007, 1 VPL.0099.0002.0163 @.0163; Exhibit RC0281 ICR3838 (089), 14 July 2007, 1014 VPL.2000.0003.2600.

³³²⁰ Exhibit RC1750 Purana Taskforce Update, 24 July 2007, 1 VPL.0099.0002.0222 @.0222; Exhibit RC0281 ICR3838 (091), 22 July 2007, 1041-1042 VPL.2000.0003.2627-2628.

³³²¹ Exhibit RC0281 ICR3838 (083), 14 June 2007, 893 VPL.2000.0003.2479.

³³²² Exhibit RC0281 ICR3838 (083), 15 June 2007, 899 VPL.2000.0003.2485; Exhibit RC0509C Transcript of meeting between Nicola Gobbo, Anderson and Fox, 15 June 2007, 274, 300-301, 304 VPL.0005.0137.0849 @1122, .1148-.1149, .1152.

prohibition on dissemination of telephone intercept material between OPI and Victoria Police.³³²³

2372. There were differences of opinion within the OPI that a joint investigation conducted by it with Victoria Police would conflict with the OPI's independent oversight role of Victoria Police.³³²⁴ Mr Ashton said his view was that it did not compromise the OPI's oversight role. He indicated that he would have discussed the matter with Mr Brouwer.³³²⁵
2373. On 25 June 2007, a Petra Taskforce Management Committee meeting took place.³³²⁶ The written update, including handwritten notes include:
- information in relation to the outcomes of each of those who had been called before the ACC coercive hearing including that:
 - Mr Ahmed refused to answer questions, and was speaking with investigators but appeared to be lying
 - Ms Haynes indicated that two weeks prior to the murders she had been told by Mr Ahmed that Mr Hodson was to be murdered, then two days before she was told to have an alibi ready for the Saturday night, and investigators were attending to take a statement from her
 - John Nolan has a joint agency agreement, which Mr Overland was to send over to Mr Cornelius.
2374. That same day the joint agency agreement was signed by Messrs Overland and Ashton.³³²⁷ It noted that a 'Steering Committee' had been formed to monitor the progress of the Petra Taskforce and that Mr Ashton attended all Steering Committee meetings in an oversight capacity. The agreement formalised the arrangement stating that the Petra Taskforce Steering Committee consisted of Messrs Overland, Cornelius, Ryan and Ashton, which would be responsible and accountable for the overall conduct of the operation, including:
- developing a concept of the operation, including operational objectives

³³²³ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10722-10723 TRN.2019.12.09.01; Exhibit RC0866 Email from Ms Vanessa Twigg to Mr John Nolan and others, 18 June 2007 IBAC.0020.0001.0061

³³²⁴ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10722-10723 TRN.2019.12.09.01; Exhibit RC0866 Email from Ms Vanessa Twigg to Mr John Nolan and others, 18 June 2007 IBAC.0020.0001.0061; Exhibit RC0867 Email from Mr Greg Carroll to Mr Graham Ashton and others, 22 June 2007 IBAC.0020.0001.0058.

³³²⁵ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10725-10726 TRN.2019.12.09.01.

³³²⁶ Exhibit RC1769 Petra Taskforce Weekly Update, 28 May 2007, 393-396 VPL.0100.0013.0846 @.1238-.1241; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 25 June 2007, 80-83 VPL.0100.0129.0001 @.0080-.0083; Exhibit RC1769 Petra Taskforce Weekly Update, 25 June 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 368-369 VPL.0100.0001.5402 @.5769-.5770.

³³²⁷ Exhibit RC0871 Operation Petra Joint Agency Agreement, 25 June 2007, 4, [2.2] VPL.0005.0012.2435 @.02439; Exhibit RC0871 Operation Petra Joint Agency Agreement, 25 June 2007, 375-388 VPL.0100.0013.0846 @.1220-.1233; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 25 June 2007, 88-101 VPL.0100.0129.0001 @.0088-.0101; Exhibit RC0871 Operation Petra Joint Agency Agreement, 25 June 2007, 361-367 VPL.0100.0001.5402 @.5762-.5768.

- maintaining coordination of the operation and enhancing co-operation and information sharing between participating agencies
- monitoring results of the Operation against the objectives
- ensuring the efficient collection and timely dissemination of information and intelligence
- responsibility for the engagement of other Agencies to assist with the investigation.

2375. The agreement also included that:

- Victoria Police was responsible for investigating the murder of Christine and Terrence Hodson. As an independent oversight body, the OPI would maintain detachment from the day to day running of the murder investigation. At the same time the OPI would continue to actively investigate the unauthorised disclosure of information in IR44
- recent information supported the theory that the murders were connected to the unauthorised disclosure of information in IR44. Because of the investigation 'overlap' between the Victoria Police and OPI, there was heightened need for co-operation between the agencies
- once the agreement was executed OPI case officers would share information with the Petra Taskforce where it was considered relevant to the Hodson's murder investigation or security of the investigation. This included information from various forms of surveillance and OPI hearings
- the Assistant Director, OPI would advise the Steering Committee when/if the OPI intended to hold relevant hearings
- the Director, Police Integrity, may authorise OPI hearings to further the Petra Taskforce investigation
- each agency would employ high level security measures to ensure the physical safety of human sources and confidential sources. To this end, the identity of any registered informers or confidential sources was not to be disclosed to persons not directly involved in the investigation without the approval of the Petra Taskforce Steering Committee.

2376. It is of note that:

- on 16 May 2007 when interviewed by the SDU, Ms Gobbo said she was with Mr Ahmed on the night of the murder
- by 25 June 2007 investigators had been told and had updated the Petra Taskforce Management Committee that Ms Haynes had received pre-warning from Mr Ahmed of the need for an alibi on the night of the murder
- the joint agency agreement indicated the oversight committee no longer specifically included Messrs Hollowood and Blayney, but now included Mr Ryan

- disclosure of the identity of registered informers required the approval of that oversight committee
- shortly after this a decision was made to summons Ms Gobbo to the OPI.

2377. The joint agency agreement contemplates that those on the oversight committee would be aware of the identity of registered sources associated with the investigation.

25 June – Gobbo Searches Another Barrister’s Chambers

Background

2378. As referred to above, Ms Gobbo had expressed concern on several occasions that Carl Williams might implicate her in criminal activity were he to co-operate.
2379. On 23 May 2007, Ms Gobbo referred to Ms Sharon Cure, who had been junior counsel for Carl Williams on his plea in late April 2007. Ms Cure was in the same group of chambers as Ms Gobbo. She told her handler that Ms Cure had ‘copies of Carl Williams’ statements’ and had given her details.
2380. This was not true. On 25 April 2007, in an email to her instructing solicitor, Ms Cure had said, amongst other matters, ‘Carl has signed the statement. We will not receive a copy and it is highly sensitive and subject to an ongoing investigation.’ Ms Cure had possession of an envelope for a short time prior to Mr Bateson seeking its return. This may have contained a statement of two to three pages in length, but she did not open it and did not read it.³³²⁸

Entry into Chambers of Another Barrister

2381. On 25 June 2007, Ms Gobbo told her handler that she had been ‘looking around’ Ms Cure’s office over the weekend and had ‘found’ subpoenaed documents from the prison at which Mr Thomas was located. She further described having ‘found’ a list of phone records. Ms Gobbo was upset as the records detailed daily contact between Mr Thomas with herself and Purana Taskforce members. Her handler, Mr Fox, told her he would look into it and confirm the existence of the documents.
2382. In relation to questions about whether she had entered Ms Cure’s chambers on 25 June 2006, Ms Gobbo:
- agreed she was concerned during that period that Carl Williams might ‘gild the lily’ about her involvement in matters around the murder of the Hodsons³³²⁹
 - claimed to have a recollection of talking to Ms Cure in chambers and being shown a folder with Mr Williams statement in it, and of Ms Cure also pointing out phone records. It was suggested that Ms Gobbo was making up her evidence, that she had been speaking to the handler

³³²⁸ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 2-3 [24-28] COM.0104.0001.0001 @.0002-0003.

³³²⁹ Transcript of Ms Nicola Gobbo, 7 February 2020, 13432-13433 TRN.2020.02.07.01.

about 'looking around' someone else's room and having 'found' such documents³³³⁰

- accepted that she had no authority to enter Ms Cure's chambers and look around when she was not present³³³¹
- agreed the note suggested she had been in there alone, but said she had no recollection of being in there or being able to get in there without Ms Cure being present³³³²
- said her memory was of one conversation with Ms Cure about such matters which might have been a separate occasion³³³³
- when it was suggested to Ms Gobbo that Ms Cure did not show her the statement of Carl Williams, because she never had the statement, Ms Gobbo said that she might be wrong about what the document was.³³³⁴

2383. Ms Cure, now a Magistrate in Tasmania, provided the Commission with a statement which indicated, amongst other matters:

- Ms Cure had first encountered Ms Gobbo in 1999 when prosecuting a matter in which Ms Gobbo was defence counsel, and had cause for concern about her conduct in the matter which endured³³³⁵
- Ms Gobbo came to occupy a room in her chambers, supposedly on a temporary basis in 2006, when a member of chambers went overseas³³³⁶
- Ms Cure would always keep her chambers locked, but a master key to all rooms was kept in a location known to all those occupying the floor³³³⁷
- she did not discuss the Williams case with Ms Gobbo at any time, and would not have done so given concerns she had about Ms Gobbo's involvement³³³⁸
- she did not give Ms Gobbo permission to enter her chambers when she was not there³³³⁹
- she had never invited Ms Gobbo into her chambers and does not believe Ms Gobbo was ever in her chambers when she was there.³³⁴⁰

³³³⁰ Transcript of Ms Nicola Gobbo, 7 February 2020, 13422, 13425 TRN.2020.02.07.01.

³³³¹ Transcript of Ms Nicola Gobbo, 7 February 2020, 13426, 13432 TRN.2020.02.07.01.

³³³² Transcript of Ms Nicola Gobbo, 7 February 2020, 13425 TRN.2020.02.07.01.

³³³³ Transcript of Ms Nicola Gobbo, 7 February 2020, 13426, 13430 TRN.2020.02.07.01.

³³³⁴ Transcript of Ms Nicola Gobbo, 7 February 2020, 13464 TRN.2020.02.07.01.

³³³⁵ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 1 [4-5] COM.0104.0001.0001 @.0001.

³³³⁶ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 1 [7] COM.0104.0001.0001 @.0001.

³³³⁷ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 1 [9-10] COM.0104.0001.0001 @.0001.

³³³⁸ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 4 [38] COM.0104.0001.0001 @.0004.

³³³⁹ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 4 [39] COM.0104.0001.0001 @.0004.

³³⁴⁰ Exhibit RC1180 Statement of Ms Sharon Cure, 10 February 2020, 4 [40-41] COM.0104.0001.0001 @.0004.

2384. **On the evidence, it is open to the Commissioner to find that on the weekend of 23 and 24 June 2007, Ms Gobbo entered Ms Cure's chambers without permission, and looked through confidential material relating to the Carl Williams case.**

2385. A barrister's chamber is full of privileged, confidential material. It is submitted that Ms Gobbo doing such a thing demonstrates another aspect of her unsuitability as an officer of the court.

2386. It is apparent that despite the clear indication from Ms Gobbo that she had entered another barrister's chambers without permission to look through what could only have been understood to be privileged and confidential material, the SDU members did not question her conduct.

2387. It is submitted that this is a matter of concern, given Ms Gobbo's access to the chambers of other barristers who were representing many of those investigated and charged by Victoria Police.

2388. Later that night, Mr Sandy White spoke with Mr Fox about the matter. Mr Sandy White recorded in his diary that Mr Flynn would check to see whether the relevant calls had been subpoenaed from the prison.³³⁴¹

2389. Mr Fox when questioned about these matters said that whilst he could not recall this occurring, at the time Ms Gobbo told him his antenna was not attuned to the possibility that she had been in the office unlawfully.³³⁴²

2390. It is submitted that if Mr Fox's evidence in this regard is accepted, it demonstrates, as was later accepted by Mr Sandy White, that the SDU members had 'lost their way'.³³⁴³

2391. **On the evidence, it is open to the Commissioner to find that in failing to take steps to investigate her conduct or even failing to question it, Mr Fox may have encouraged Ms Gobbo to take the view that she could act in an improper or unethical manner without facing any consequences.**

Late June 2007 – Blayney Told Not to Reveal Human Source to the AFP

2392. Detective Superintendent Jack Blayney held the role of Major Crime Tasking and Co-ordination Manager with the Crime Department. This meant that he oversaw resourcing priorities for all major investigations in Victoria and determined which investigations would get what resources, such as surveillance and technology intercepts.

³³⁴¹ Exhibit RC0292 Mr Sandy White diary, 25 July 2007, 70-71 VPL.2000.0001.1151 @.1220-.1221

³³⁴² Transcript of Mr Fox, 13 September 2019, 6368-6379 TRN.2019.09.13.01.

³³⁴³ Transcript of Mr Sandy White, 20 August 2019, 4932.

2393. On 26 June 2007, Mr Blayney spoke with Mr Smith in relation to the importation into Swanston Dock being in relation to 13 million pills.³³⁴⁴ On 28 June 2007, he spoke again with Mr Smith in relation to the pending arrival of the ship. Mr Blayney noted in his diary:

*discussed intel support, [illegible], HS, leadership requires S/Sgts.*³³⁴⁵

2394. On the night of 28 June 2007, the container was searched, and the drugs were discovered. Mr Sandy White had a conversation with Mr Green, which he noted in his diary:

*Issue re AFP. Supt Blayney meeting same tomorrow re cont[ainer].
Need to make sure same does not disclose existence of HS.*³³⁴⁶

2395. Mr Sandy White then spoke with his direct superior, Inspector Rob Hardie, who indicated he would speak to Mr Biggin about the issue.³³⁴⁷

2396. On the morning of 29 June 2007, Mr Blayney's diary contains an entry suggesting he spoke with Mr Biggin, shortly prior to his attending at a meeting with the ACC, the AFP and the ACS.³³⁴⁸

2397. Mr Sandy White spoke with Mr Biggin and provided him an update. Mr Sandy White noted in his diary an agreement that the federal authorities were not to be told about the existence of a human source, and confirmed that Mr Biggin had spoken to Mr Blayney of this prior to his meeting with them:

Sup. going to meeting with AFP/ACC. Aware of issues re time & protecting HS.

Agreed:

- *AFP will not be told of existence of HS*
- *TB to S/T Mr Wolf re same*³³⁴⁹

3 July 2007 – Multiple Cases being Perverted

2398. On 3 July 2007, Ms Gobbo met with Messrs Sandy White and Anderson. During this conversation, where exhortations were being made that Ms Gobbo not represent anyone arrested following the 'tomato tin investigation', there was clear recognition that the use of Ms Gobbo as a human source by Victoria Police was leading to numerous situations where people were not receiving a fair trial:³³⁵⁰

MR SANDY WHITE: All right. It's really important for all of us that you don't represent anyone.

MS GOBBO: Mm.

³³⁴⁴ Exhibit RC0817 Mr John (Jack) Blayney diary, 26 June 2007, 45 VPL.0005.0241.0385 @.0429.

³³⁴⁵ Exhibit RC0817 Mr John (Jack) Blayney diary, 28 June 2007, 45 VPL.0005.0241.0385 @.0429.

³³⁴⁶ Exhibit RC0292 Mr Sandy White diary, 28 June 2007, 76 VPL.0100.0096.0621 @.0696.

³³⁴⁷ Exhibit RC0292 Mr Sandy White diary, 28 June 2007, 76 VPL.0100.0096.0621 @.0696.

³³⁴⁸ Exhibit RC0817 Mr John (Jack) Blayney diary, 29 June 2007, 51 VPL.0005.0241.0385 @.0435.

³³⁴⁹ Exhibit RC0292 Mr Sandy White diary, 29 June 2007, 77 VPL.0100.0096.0621 @.0697.

³³⁵⁰ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Fox and Sandy White, 3 July 2007, 120 VPL.0005.0136.0001 @.0120; Exhibit RC0282 Audio of meeting between Nicola Gobbo, Fox and Sandy White, 3 July 2007.

MR SANDY WHITE: I'd hate to think that ultimately a conviction could be overturned because there was an allegation or suggestion or a bloody inquiry in relation to whether he got completely unbiased uncompromised defence.

MS GOBBO: Who's ever going to know about that?

MR SANDY WHITE: Well - - -

*MS GOBBO: **And there's already 20 people in that category.***

MR SANDY WHITE: I know, I know.

MS GOBBO: Sorry.

MR SANDY WHITE: Don't think we haven't thought about this day in and day out.

MS GOBBO: I do.

MR SANDY WHITE: It's - it's - and I fully expect you would.

2399. Mr Sandy White told the Commission of his awareness of the rights of an accused at the relevant time, including the right to speak to a lawyer that was independent and who would act in his or her best interests.

2400. A hypothetical scenario was put to Mr Sandy White in which he was charged with a criminal offence. In that scenario he agreed that:

- he would attend upon a legal practitioner and expect him or her to act in his best interests
- he would be very unhappy if he became aware that his barrister was working against his interests behind his back with the very people who had charged him
- he would regard that as most unethical, and understood that it might potentially involve the commission of a serious criminal offence
- he would be outraged if he found that such information was deliberately kept from him
- these were all fundamental matters that he would hope every police officer would know about.³³⁵¹

11 July 2007 – Gobbo Summoned by OPI

2401. On 11 July 2007, prior to 11:00am, Ms Gobbo received a telephone call from the OPI informing her it wished to serve confidential documents on her that afternoon. Ms Gobbo rang and informed her handler, Mr Fox, telling him she believed it related to Mr Dale.³³⁵²

2402. At 11:00am that morning Messrs Overland and Cornelius attended at the OPI for discussions with Mr Ashton.

³³⁵¹ Transcript of Mr Sandy White, 30 July 2019, 3561-3565 TRN.2019.07.30.01.

³³⁵² Exhibit RC0281 ICR3838 (089), 11 July 2007, 1003 VPL.2000.0003.2589.

2403. That afternoon, Ms Gobbo was served with a summons to attend to give evidence at the OPI on 19 July 2007 in relation to 'the circumstances surrounding the disclosure of a police file or any part of it and, in particular, the circumstances surrounding the unauthorised disclosure of, or information from, a confidential and sensitive Victoria Police information report between September 2003 and June 2004'. She was also served with a confidentiality notice indicating that it was an offence to disclose the existence of the subject matter of the investigation without a reasonable excuse. A reasonable excuse was defined as disclosure for the purpose of legal advice in relation to the summons, obtaining or providing information in order to comply with the summons, or the administration of the Police Regulation Act.³³⁵³
2404. It is submitted that in contravention of the confidentiality notice, Ms Gobbo rang Mr Fox and spoke with him a number of times about the summons. She told him it related to Mr Dale, Mr Mokbel and the 50 information reports he had. She cried and spoke of her worry at her role as a human source becoming known. She spoke about not attending and not caring about being charged. Mr Fox told her she should go to the hearing and answer the questions. Ms Gobbo sought a guarantee that the questions would be controlled, and it was explained this could not occur. Mr Fox said he would notify Mr Sandy White.³³⁵⁴

12 July 2007 – OPI Summons Issue Elevated to Overland

2405. On 12 July 2007, Mr Fox spoke with Mr Richards, who was Ms Gobbo's controller during a period of leave by Mr Sandy White,³³⁵⁵ about the OPI hearing. Mr Richards then spoke in turn with Messrs Biggin and Ryan, informing them about concerns as to the questions Ms Gobbo might be asked. He was told they would consider and get back to him. Mr Richards later recorded in the SML that enquiries were being made with Mr Overland to prevent Ms Gobbo being asked questions which would expose her as a human source. Mr Richards recorded in his diary that he updated Mr Fox, telling him to placate Ms Gobbo by informing her that the matter had been referred to 'the top' and they would get 'guarantees as much as possible'.³³⁵⁶
2406. Mr Fox told Ms Gobbo that the issue was at the Deputy Commissioner level with Mr Overland, and that attempts were being made to prevent questions being asked that would reveal her status as a human source. Mr Fox conceded that someone at the highest level at the OPI might have to be told about her status.³³⁵⁷
2407. On the morning of 13 July 2007, Mr Richards spoke with Mr Ryan to arrange a briefing with Mr O'Brien in relation to Ms Gobbo.³³⁵⁸ Later that afternoon, Mr Richards met with Messrs Ryan and O'Brien where they discussed Ms

³³⁵³ Exhibit RC0313 Bundle of documents regarding Ms Nicola Gobbo's evidence at Office of Police Integrity Hearing, 11 July 2007, 9-17 IBAC.0010.0001.1386 @.0009-.0017.

³³⁵⁴ Exhibit RC0281 ICR3838 (089), 11 July 2007, 1005-1007 VPL.2000.0003.2591-2593.

³³⁵⁵ Exhibit RC0284 SML3838, 3 July 2007, 115 VPL.2000.0001.9447 @.9561.

³³⁵⁶ Exhibit RC0507 Mr Fox diary, 12 July 2007, 1 VPL.4046.0002.0211 @.0211; Exhibit RC0601 Mr Richards diary, 12 July 2007, 33-34 RCMP.0082.0001.0001 @.0033-.0034; Exhibit RC0284 SML3838, 12 July 2007, 117 VPL.2000.0001.9447 @.9563.

³³⁵⁷ Exhibit RC0281 ICR3838 (089), 12 July 2007, 1009-1010 VPL.2000.0003.2595-2596.

³³⁵⁸ Exhibit RC0601 Mr Richards diary, 13 July 2007, 34 RCMP.0082.0001.0001 @.0034.

Gobbo being called before the OPI, and the concerning questions which were anticipated to be asked of Ms Gobbo by the OPI:

- Who have you told about the summons?
- Who have you told about the information reports?³³⁵⁹

2408. They spoke about the questions potentially being modified so that her answers would not need to refer to police, for example 'Who have you discussed these IR's with in the underworld (criminals, clients and associates)'. Mr Richards spoke of the possibility that Ms Gobbo would get up and walk out if she was asked the 'wrong' questions and of the need to get her onside early. Mr Ryan said he would advise Mr Overland about the matter.³³⁶⁰ Mr Ryan told the Commission that following this time this is what he did.³³⁶¹
2409. On 14 July 2007, Ms Gobbo was told that Mr Sandy White was cutting short a trip to come back and deal with the issue. Ms Gobbo told Mr Fox that she was considering claiming legal professional privilege in the hearing. Mr Fox told her to be careful, as such a claim was confined to client instructions, and not criminal activity. Ms Gobbo was told if she was asked a question which might reveal her identity, she should call a 'time out' and let the SDU deal with the matter.³³⁶²
2410. On 15 July 2007, Ms Gobbo again spoke to Mr Fox about claiming legal professional privilege in relation to questions asked.³³⁶³ Later that day Ms Gobbo was told that Mr Overland's position the previous Friday, 13 July 2007 had been positive, and that an answer from him was expected the following day.³³⁶⁴ This was likely to coincide with the Petra Taskforce Management Committee meeting scheduled the next day which Messrs Overland and Ryan would both attend.
2411. On 16 July 2007, the Petra Taskforce Management Committee met, attended by Messrs Overland, Cornelius, Ashton, Hollowood and Ryan and Officer Terrasse.³³⁶⁵ The written update indicated that there were no [REDACTED] [REDACTED] scheduled for the immediate future, and there were OPI hearings to be conducted on 19 and 20 July 2007. Minutes taken by Officer Terrasse indicate that the meeting ran for eight minutes of the scheduled half hour, commencing at 4:27pm and concluding at 4:35pm, and there was discussion of the weekly written update.³³⁶⁶ Mr Ryan recorded in his diary

³³⁵⁹ Exhibit RC0601 Mr Richards diary, 13 July 2007, 34 RCMP1.0082.0001.0001 @.0034.

³³⁶⁰ Exhibit RC0312 Mr Gavan Ryan diary, 13 July 2007, 128 VPL.0005.0120.0187 @.0314; Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 13 [78] VPL.0014.0039.0001 @.0013.

³³⁶¹ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 13 [78] VPL.0014.0039.0001 @.001.3

³³⁶² Exhibit RC0281 ICR3838 (089), 14 July 2007, 1014 VPL.2000.0003.2600.

³³⁶³ Exhibit RC0281 ICR3838 (089), 15 July 2007, 1017 VPL.2000.0003.2603.

³³⁶⁴ Exhibit RC0281 ICR3838 (089), 15 July 2007, 1018 VPL.2000.0003.2604.

³³⁶⁵ Exhibit RC0316 Petra Taskforce Weekly Management Committee Meeting minutes, 16 July 2007, 370 VPL.0100.0013.0846 @.1215; RC0316 Petra Taskforce Weekly Update, 16 July 2007, 371-374. VPL.0100.0013.0846 @.1216-.1219; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 16 July 2007, 102-106 VPL.0100.0129.0001 @.0102-.0106; Exhibit RC0899 Petra Taskforce Weekly Update, 16 July 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 354-355 VPL.0100.0001.5402 @.5755-.5756

³³⁶⁶ Exhibit RC0316 Petra Taskforce Weekly Management Committee Meeting minutes, 16 July 2007, 370 VPL.0100.0013.0846 @.1215; RC0316 Petra Taskforce Weekly Update, 16 July 2007, 371-374 VPL.0100.0013.0846 @.1216-.1219.

attending for the meeting at 4:00pm and departing at 4:45pm.³³⁶⁷ It is apparent from what followed that Mr Ryan had spoken with Mr Overland. It is not clear whether those discussions included Messrs Ashton and Cornelius at the time.

2412. On 17 July 2007, at 12:45pm, Mr Sandy White arrived back from leave to deal with issues relating to Ms Gobbo, in particular, concerns about her exposure at the OPI. He met with members of his team, Messrs Richards, Peter Smith and Fox. During the meeting Mr Sandy White was told that Mr Gavan Ryan had spoken with Mr Overland about the OPI issue.
2413. Mr Overland's diaries were discovered during the course of his giving evidence at the Commission. These diaries included entries over this date range. He did not record any entry in relation to these matters during this period, despite, it is submitted, the evidence indicating he was spoken to about these matters.

17 July 2007 – Blayney Raises Need for Legal Advice

2414. On 17 July 2007, at 2:00pm, Mr O'Brien provided a Purana Taskforce briefing to Messrs Overland, Blayney and Brown.³³⁶⁸
2415. Mr O'Brien recorded in his diary that there was a discussion of Karam/3838 issues at the meeting. When questioned about his note from the meeting, Mr O'Brien said that given the time that had passed, he could not say whether the Karam and Gobbo issues were inter-related or separate. Given the relevant circumstances at the time, it is submitted that those issues were inter-related.
2416. Around this time the possibility of Ms Gobbo being a witness against Mr Karam and Mr Mokbel had been mooted,³³⁶⁹ and as referred to below, the following day, Mr O'Brien and Mr Sandy White were discussing such matters, including the need for legal advice about the impact on the conviction of Mr Cooper and others, should Ms Gobbo's role be exposed. It is likely that conversation was sparked by the conversation had this day involving Messrs Overland, Blayney, Brown and O'Brien.
2417. Mr Blayney noted in his diary:
- 3838 – change of reg no.*
- hypothetical legal opinion.*³³⁷⁰
2418. Mr Blayney believed that the first line of his notes reflected a discussion had at the meeting about threats to Ms Gobbo. He said a change to Ms Gobbo's registered number was discussed as a mitigation for the increasing

³³⁶⁷ Exhibit RC0312 Mr Gavan Ryan diary, 16 July 2007, 129 VPL.0005.0120.0187 @.0315.

³³⁶⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 17 July 2007, 10 VPL.0005.0153.0001_R @.0010; Exhibit RC0817 Mr John (Jack) Blayney diary, 17 July 2007, 70 VPL.0005.0241.0385 @.0454; Exhibit RC1560 Mr Graham Brown diary, 17 July 2007, 30 VPL.0005.0216.0001 @.0030.

³³⁶⁹ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 2 [1:02:15], 3 [1:11:20, 1:12:45], 5 [2:33:20, 2:36:43, 2:39:20] VPL.2000.0003.0263 @.0001, .0002, .0004.

³³⁷⁰ Exhibit RC0817 Mr John (Jack) Blayney diary, 17 July 2007, 70 VPL.0005.0241.0385 @.0454.

complexity around the range of things Ms Gobbo was involved in and the risk that too many people knew or suspected that she was informing.³³⁷¹

2419. The threats Ms Gobbo was continuing to receive are addressed in Chapter 13.
2420. As referred to above, in late June 2007, Mr Blayney had been spoken to by Mr Biggin about not revealing the human source in the Karam matter to the AFP. It is submitted that it is likely that by this time Mr Blayney had discovered that Ms Gobbo was the human source.
2421. Mr Blayney was also aware that the Purana Taskforce was conducting an investigation relating to threats made against Ms Gobbo, and, it is submitted, would have linked those threats to her status as a human source.
2422. Mr Blayney was asked about the second line of his diary entry, 'hypothetical legal opinion'. His evidence to the Commission was that over time he had pieced together various pieces of information and had come to the realisation that Ms Gobbo was the source. He had learned the source was a lawyer, but not his or her practice area, then that the lawyer was female, then that she was a criminal barrister.³³⁷²
2423. Mr Blayney said that leading up to this meeting he was becoming more concerned about the legal complexities around using Ms Gobbo as a human source. He said that he recalled having conversations in the weeks leading up to this meeting around his concerns as he wanted to understand what the legal complications might be in order to understand whether anything needed to be done about it. He said that although he did not have a specific memory, those conversations would have been had with people involved at the Purana Taskforce, such as Messrs O'Brien and Ryan and potentially also Superintendent Hollowood, who was overseeing the Purana Taskforce at the time. He said he may also have spoken with Mr Biggin.
2424. Mr Blayney said he was not receiving an adequate response, recalling that he was told that information was being obtained from her based on her social relationships not her professional relationships. Mr Blayney said he was aware that Ms Gobbo was acting for a range of clients that were targets of the Purana Taskforce, and who had been charged by the Purana Taskforce. In Mr Blayney's mind, this was an issue.
2425. Mr Blayney said he raised the issue at the meeting and suggested that a hypothetical legal opinion be obtained. He viewed the use of Ms Gobbo as a human source as involving a lot of complexities given her profession, her acting for a range of criminals, her obligations to act in the best interests of her clients, and the potential for the court system to be corrupted because of evidence being tainted and unfairnesses occurring. He also appreciated that there were risks that went along with Ms Gobbo continuing to act for those she had informed upon. Mr Blayney said in this context he wanted to ensure they had advice to understand in what circumstances Ms Gobbo would be permitted to provide police with information she had obtained from a client. He said he did not know whether they had obtained a legal opinion previously, but it was getting complex and he considered they needed legal

³³⁷¹ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10232 TRN.2019.12.03.01.

³³⁷² Transcript of Mr John (Jack) Blayney, 3 December 2019, 10233 TRN.2019.12.03.01.

advice in any case.³³⁷³ He suggested that they provide a lawyer with a set of scenarios that could occur in managing Ms Gobbo, such as information provided in a personal or professional capacity, and obtain legal advice as to how the information might be managed in those scenarios.³³⁷⁴

2426. Mr Overland's evidence was that he had a vague recollection of a discussion about obtaining a hypothetical legal opinion about Ms Gobbo and her role, her being a barrister acting as a human source potentially in conflict with her clients. Mr Overland was not sure if he provided any assurance to Mr Blayney that Ms Gobbo was not being used against her clients. He said he understood Mr Blayney's concern to be a general concern about using a barrister as a human source, nothing more specific than that. He could not see any value in a hypothetical piece of legal advice, or how one could be provided. Mr Overland said he believed that the issues would be dealt with by way of the criminal justice process through discovery.³³⁷⁵
2427. It follows from the fact that questions and concerns were being raised in this discussion that such issues had not been dealt with through the criminal justice process, as had they, that would almost certainly have come to the attention of one or other of the attendees at the meeting. Mr O'Brien was present and he would have said so if they had been. Instead, Mr Overland directed that a team, including the SDU, meet and consider further Ms Gobbo's ongoing use as a human source given the concerns as to her safety.³³⁷⁶ That meeting took place on 24 July 2007 and included members of the SDU, and the Purana and Petra Taskforces.

17 July 2007 – SDU Meeting with Gobbo about OPI and Other Issues

2428. On 17 July 2007, Mr Sandy White returned to Melbourne and met with Messrs Richards, Peter Smith and Fox about Ms Gobbo. Mr Sandy White was told that Mr Ryan had spoken to Mr Overland about the issue, seeking that Ms Gobbo not be asked questions about what police she had spoken to. He was also told that Mr Fitzgerald had been told that Ms Gobbo was a human source (which, it is submitted, appears at odds with the following discussion about the option of telling him about her status). They agreed that Mr Ryan would be asked whether they were permitted to tell Ms Gobbo that Mr Fitzgerald was the Chairman conducting the OPI inquiry, and the options to be discussed with Ms Gobbo were:³³⁷⁷
- refuse to answer questions as she had been threatening, which was considered bravado on her part
 - answer all questions except those which would compromise her, then ask to stand down so she could seek advice from the SDU
 - the Chairman receive limited intelligence as to her assistance and the death threats she was receiving, and concerns that her answers would be documented and may compromise her at a later date.

³³⁷³ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10236-10238 TRN.2019.12.03.01.

³³⁷⁴ Exhibit RC0069C Statement of Mr John (Jack) Blayney, 25 July 2019, 4 [20] VPL.0014.0010.0008 @.0011

³³⁷⁵ Transcript of Mr Simon Overland, 19 December 2019, 11761-11766 TRN.2019.12.19.01.

³³⁷⁶ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10239 TRN.2019.12.03.01.

³³⁷⁷ Exhibit RC0292 Mr Sandy White diary, 17 July 2007, 85 VPL.0100.0096.0621 @.0705.

2429. When Messrs Sandy White, Fox and Peter Smith met with Ms Gobbo they discussed her having three options: ³³⁷⁸
- refusing to answer questions; this option would lead to her being charged, she would then seek a letter of comfort from Victoria Police to explain her actions, which would result in her identity being compromised with the court in any case
 - attending and participating in the hope that she was not asked questions about whom she had spoken to about the hearing; this option was said to be unrealistic and dangerous
 - influencing the questions she would be asked; this option would involve the examiner being told her identity.
2430. It was agreed that the latter was the best option, and it was also noted that:
- the examiner did not need to be told everything
 - the examiner could be told that Ms Gobbo has assisted police in the past and was receiving threats on her life and was therefore dealing with police
 - if this was done, she was unlikely to be asked questions about with whom she had discussed the summons.
2431. During the conversation Ms Gobbo asked whether she would be asked questions that came from matters which she had only told the SDU, as some of the things she had told the SDU were privileged.³³⁷⁹
2432. Ms Gobbo was told that Mr Ryan was in charge of the Hodson murder investigation and was being assisted by the OPI. She said that she wanted Mr Ryan at the hearing in case she needed to speak with someone.³³⁸⁰
2433. The SML indicates that Ms Gobbo was advised that the Chairman was already aware of some assistance Ms Gobbo had provided police and he would ensure she was not put in a compromising position.³³⁸¹
2434. On 18 July 2007, Mr Sandy White met with Mr Ryan to discuss Ms Gobbo's OPI examination the next day. Mr Ryan indicated he would be present in the hearing room and would contact the SDU if Ms Gobbo was compromised or at serious risk.³³⁸²
2435. Ms Gobbo was told by Mr Fox that the hearing officer would be Mr Gary Livermore of counsel. Ms Gobbo was not pleased. She was told that Mr Livermore would not be told of her status. She was told that only Mr Fitzgerald would be told as he had overriding control of the hearing.³³⁸³

³³⁷⁸ Exhibit RC0281 ICR3838 (090), 17 July 2007, 1024-1027 VPL.2000.0003.2610-2613.

³³⁷⁹ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 4 [1:54:30] VPL.2000.0003.0263 @.0003.

³³⁸⁰ Exhibit RC0281 ICR3838 (090), 17 July 2007, 1024-1027 VPL.2000.0003.2610-2613.

³³⁸¹ Exhibit RC0284 SML3838, 17 July 2007, 118 VPL.2000.0001.9447 @.9564.

³³⁸² Exhibit RC0292 Mr Sandy White diary, 18 July 2007, 87 VPL.0100.0096.0621 @.0707.

³³⁸³ Exhibit RC0281 ICR3838 (091), 18 July 2007, 1030 VPL.2000.0003.2616.

2436. That evening, Mr Fox went over with Ms Gobbo the protections which had been put in place for her:
- she would not be asked questions about who she had spoken to about the summons, rather she would be asked whether she had spoken with Mr Dale and others
 - if she felt threatened by a question, for example that she might have to reveal her human source status, she could call a 'time out' and Mr Ryan would be there to deal with the issue
 - Ms Gobbo was told she should only do so on the basis of the question actually asked, not what she was anticipating would be asked.³³⁸⁴

17 July 2007 – Possibility of Gobbo Becoming a Witness is Discussed

2437. On the night of 17 July 2007, Messrs Sandy White, Peter Smith and Fox met with Ms Gobbo. During the meeting they discussed her options in relation to the OPI summons. As previously stated, in the course of that discussion, Ms Gobbo, referring to what had occurred when she had spoken to ESD investigators working on Operation Khadi, asked if she would be asked questions by the OPI based upon information she had provided to the SDU, stating that some things she had told the SDU were privileged.³³⁸⁵
2438. There was also discussion about Mr Ketch, whom Ms Gobbo said she would prefer not to be acting for at his appeal. She was asked where the money was coming from that she was to be paid with. Ms Gobbo said it would probably come from his business and she did not know if he was making money legitimately or not. Ms Gobbo said she had had an argument with Mr Ketch the previous night when he asked her for an assessment of his brief and she told him that he was in trouble.³³⁸⁶
2439. Also during the meeting, there was discussion about the potential that Ms Gobbo might become a witness.³³⁸⁷ There was thought to be a possibility that Ms Gobbo could potentially be a witness in two matters:
- a prosecution of Tony Mokbel in relation to an attempt to pervert the course of justice against Mr Mokbel.³³⁸⁸ This related to an allegation that Tony Mokbel had attempted to have Mr Cooper give false evidence in order that his brother, Kabalan Mokbel, not be convicted³³⁸⁹
 - a prosecution of Mr Karam in relation to the importation.³³⁹⁰

³³⁸⁴ Exhibit RC0281 ICR3838 (091), 18 July 2007, 1031 VPL.2000.0003.2617.

³³⁸⁵ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 4 [1:54:30] VPL.2000.0003.0263 @.0003.

³³⁸⁶ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 6 [2:49:00] VPL.2000.0003.0263 @.0003.

³³⁸⁷ Exhibit RC0284 SML3838, 17 July 2007, 118 VPL.2000.0001.9447 @.9564; Exhibit RC0281 ICR3838 (090), 17 July 2007, 1024-1027 VPL.2000.0003.2610-2613.

³³⁸⁸ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 2 [1:02:15] VPL.2000.0003.0263 @.0001.

³³⁸⁹ Exhibit RC0281 ICR3838 (052), 2 November 2006, 537, VPL.2000.0003.2132; Exhibit RC0281 ICR3838 (053), 544, 14 November 2006, VPL.2000.0003.2140.

³³⁹⁰ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 3 [1:11:20] VPL.2000.0003.0263 @.0002.

2440. Ms Gobbo indicated that she would be prepared to give evidence against Mr Mokbel, knowing it would change her entire life. Mr Sandy White indicated that her real value as a witness was as against Mr Karam.³³⁹¹ There was discussion about the consequences of Ms Gobbo becoming a witness, and the involvement of 'Witsec'.³³⁹² Mr Sandy White indicated he was 'not a fan' of the option, but it was not their role to determine whether Ms Gobbo would be a witness. Mr Sandy White said he would speak to Mr O'Brien and tell him that Witsec was not out of the question if Ms Gobbo was serious about it and asked that Ms Gobbo tell him whether or not he should open discussion with Mr O'Brien. He spoke of the other option being for Ms Gobbo to become a Magistrate, which would cut ties and her stress.³³⁹³
2441. Mr Sandy White's diary contained reference to the 'fallout' if this occurred and the involvement of 'Witsec'.³³⁹⁴

18 July 2007 – Sandy White and O'Brien agree on the need for legal advice

2442. On 18 July 2007, during the morning, Mr Sandy White provided an update to Messrs Biggin and Hardie about Ms Gobbo, amongst other matters.³³⁹⁵ In his note of the conversation, Mr Biggin referred to 'Witsec' being the topic of discussion.³³⁹⁶ Later that afternoon, Mr Biggin spoke with Mr Ryan about a number of matters including issues related to Ms Gobbo and Operation Petra directions.³³⁹⁷
2443. That afternoon, Mr Sandy White met with Mr O'Brien in relation to the issues with Ms Gobbo. Mr O'Brien recorded in his diary that the meeting related to '*3838 issues witness/informer situation*'.³³⁹⁸ As referred to above, the possibility of Ms Gobbo being a witness against Karam and Mokbel had been mooted by this time.³³⁹⁹
2444. Mr Sandy White recorded in his diary that during the meeting:
- they discussed the possibility of Ms Gobbo becoming a witness, which Mr Sandy White advised against
 - Mr O'Brien suggested that if it was inevitable that Ms Gobbo would be compromised, then they should use her as a witness whilst they could
 - Mr Sandy White responded that he did not believe Ms Gobbo would necessarily be compromised, and her value as a witness needed to be weighed against the 'political fallout from [the] legal fraternity', by

³³⁹¹ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 3 [1:11:20] VPL.2000.0003.0263 @.0002.

³³⁹² Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 3 [1:12:45], 5 [2:33:20, 2:36:43, 2:39:20] VPL.2000.0003.0263 @.0002, .0004.

³³⁹³ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 5-6 [2:39:20] VPL.2000.0003.0263 @.0004-.0005.

³³⁹⁴ Exhibit RC0292 Mr Sandy White diary, 17 July 2007, 86 VPL.0100.0096.0621 @.0706.

³³⁹⁵ Exhibit RC0292 Mr Sandy White diary, 18 July 2007, 86 VPL.0100.0096.0621 @.0706.

³³⁹⁶ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 18 July 2007, 518 RCMP.0075.0001.0001 @.0518.

³³⁹⁷ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 18 July 2007, 519 RCMP.0075.0001.0001 @.0519

³³⁹⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 18 July 2007, 11 VPL.0005.0153.0001_R @.0011

³³⁹⁹ Exhibit RC1793 Summary transcript of meeting between Ms Nicola Gobbo, Mr Peter Smith, Mr Fox, Mr Sandy White, 17 July 2007, 2 [1:02:15], 3 [1:11:20, 1:12:45], 5 [2:33:20, 2:36:43, 2:39:20] VPL.2000.0003.0263 @.0001, .0002, .0004.

which he meant that it might impact on the conviction of Mr Cooper and others.

- Messrs Sandy White and O'Brien agreed that they needed legal advice in relation to the 'fallout'.³⁴⁰⁰

2445. Mr Sandy White in his evidence to the Commission:

- agreed that at the time of this meeting he was concerned that if Ms Gobbo's role as a human source was exposed there might be an impact upon the convictions obtained against Mr Cooper and others
- agreed that this was the same concern that was held later when there was talk of the potential for inquiries, Royal Commissions and so forth
- agreed that he and Mr O'Brien decided it was appropriate to get legal advice about the impact on the convictions of Mr Cooper and others.³⁴⁰¹

19 July 2007 – Gobbo Examination at OPI

2446. On 19 July 2007, Ms Gobbo attended for examination at the OPI. Mr Ryan also attended the OPI, as had been requested by Ms Gobbo, and presumably arranged between Messrs Overland and Ashton.

2447. Mr Ashton stated to the Commission that his recollection was this was the date upon which he first learned Ms Gobbo was providing information to Victoria Police.³⁴⁰² He said that on the day of the hearing Mr Ryan came to see him and advised him that:

- Ms Gobbo was a human source for Victoria Police
- there was concern that if the evidence disclosed she was a human source it would impact upon her co-operation with police
- Ms Gobbo had told Victoria Police she was concerned about her role as a human source being disclosed, including to the OPI
- Ms Gobbo was also concerned about her alleged sexual relationships with a number of police members being disclosed
- there were concerns for Ms Gobbo's safety.

2448. Prior to the commencement of the examination, Mr Ryan was asked to leave the hearing room. This was ostensibly because she would be asked embarrassing questions about her relationships with a number of police, and the hearing officer did not want to embarrass her.³⁴⁰³ He was permitted to watch the examination remotely in Mr Brouwer's office. He made notes of the examination in his diary.³⁴⁰⁴

³⁴⁰⁰ Exhibit RC0292 Mr Sandy White diary, 18 July 2007, 87 VPL.0100.0096.0621 @.07067.

³⁴⁰¹ Transcript of Mr Sandy White, 3 September 2019, 5417-5418 RC_MPI_03Sept19_provisional.

³⁴⁰² Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 11 [99] GLA.0006.0001.0001 @.0011.

³⁴⁰³ Exhibit RC0281 ICR3838 (091), 19 July 2007, 1036 VPL.2000.0003.2622.

³⁴⁰⁴ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 13 [82] VPL.0014.0039.0001 @.0013; Exhibit RC0312 Mr Gavan Ryan diary, 19 July 2007, 131 VPL.0005.0120.0187 @.0317.

2449. Mr Nolan had attended a number of meetings of the Petra Taskforce Management Committee in Mr Ashton's absence. Mr Nolan was notified that Ms Gobbo was to be examined on the day or shortly before the examination date which he remotely observed. He was aware there was a high degree of sensitivity about the hearing. It was not obvious to Mr Nolan that Ms Gobbo was a human source and he did not become aware she was assisting police in any capacity.³⁴⁰⁵

2450. The transcript of the examination reveals, amongst other matters, that:

- a copy of the summons and confidentiality notes were tendered at the commencement of the examination, with Ms Gobbo indicating she understood the contents, but was not asked whether she complied with the confidentiality notice³⁴⁰⁶
- Mr Fitzgerald told Ms Gobbo at the outset that if she felt uncomfortable at any time, or if there was anything troubling her and she required a break she should let him know³⁴⁰⁷
- Mr Livermore then proceeded to question Ms Gobbo as to her relationship with Mr Argall, and the identity of any other police with whom she had similar social relationships³⁴⁰⁸
- Ms Gobbo indicated she had coffee with Stuart Bateson, Dale Flynn and Mark Hatt from Purana, not for social reasons, but in relation to her receiving death threats, and that she had also dealt with others from Purana for professional reasons, including Jim Coghlan and Nigel L'Estrange³⁴⁰⁹
- Mr Fitzgerald told Ms Gobbo to put to one side the members she was dealing with in relation to death threats and for professional reasons and was questioned about the nature of her relationship with others she had mentioned³⁴¹⁰
- Ms Gobbo was asked by Mr Livermore about her relationship with Messrs Miechel and Dale, including whether she was being referred clients by Mr Dale³⁴¹¹
- Ms Gobbo was asked by Mr Fitzgerald about her relationship in 2003 following the burglary, in which she indicated that he sought her advice prior to being charged, then he called her when he was arrested in December 2003, and that she had given him advice and had referred

³⁴⁰⁵ Exhibit RC1345 Statement of Local Area Commander John Nolan, 10 December 2019, 9 [33] VPL.0014.0101.0001 @.0009.

³⁴⁰⁶ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, Office of Police Integrity (OPI) hearing, 19 July 2007, 3-4 IBAC.0007.0001.0014.

³⁴⁰⁷ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 5 IBAC.0007.0001.0014.

³⁴⁰⁸ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 6-8 IBAC.0007.0001.0014.

³⁴⁰⁹ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 9 IBAC.0007.0001.0014.

³⁴¹⁰ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 10-15 IBAC.0007.0001.0014.

³⁴¹¹ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 15-17 IBAC.0007.0001.0014.

him to Mr Hargreaves, a solicitor who did The Police Association work³⁴¹²

- Ms Gobbo said she had represented all three of those charged in relation to the drug production at the Dublin Street house but could not represent Mr Dale because of the obvious conflict. She said Mr Dale had contacted her on the morning following the arrests to provide advice to those people³⁴¹³
- Ms Gobbo said she recalled meeting Mr Dale in a bar and taking him through a number of legal authorities and Mr Fitzgerald was concerned to understand how Ms Gobbo came to be dealing with Mr Dale in such a manner, noting that the newspapers had reported Messrs Hodson and Miechel as suspects³⁴¹⁴
- Mr Fitzgerald commented on the unusualness of Ms Gobbo being prepared to give advice to the Detective Sergeant in charge of the prosecution of her clients in circumstances where, if he was involved in the criminal conduct, that would be extremely valuable to her clients to cross-examine him if he gave evidence, and asked whether with the benefit of hindsight, that might be against her client's best interests³⁴¹⁵
- Mr Livermore asked Ms Gobbo for details as to her meeting and acting for Tony Mokbel. Ms Gobbo detailed those matters then added that after being briefed to appear for him in 2002, he had ruined her life. She explained that he was all about control, power and manipulation. She described having a friendship with him, but also that he had tried to blackmail her and had tried to threaten her. She referred to Andrew Veniamin threatening to kill her because of Tony Mokbel and Carl Williams being upset at her representing Lewis Moran.³⁴¹⁶ Ms Gobbo said Mr Swindells spoke with her a few days after the threat, and that the situation had resolved when she spoke with Mr Veniamin's solicitor, then a series of phone calls between Messrs Mokbel, Williams and Thomas which resulted in an apology from Mr Veniamin³⁴¹⁷
- Ms Gobbo said that if Tony Mokbel ever found out that she had given advice to clients that they co-operate with police or consider being a witness, let alone supported people through that process, there would be reason for him to kill her³⁴¹⁸
- Ms Gobbo spoke of the threats she was receiving, which commenced following Carl Williams claiming the year before that she was responsible for his co-accused agreeing to give evidence against him,

³⁴¹² Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 17-23 IBAC.0007.0001.0014.

³⁴¹³ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 23-26 IBAC.0007.0001.0014.

³⁴¹⁴ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 31 IBAC.0007.0001.0014.

³⁴¹⁵ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 31-32 IBAC.0007.0001.0014.

³⁴¹⁶ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 31-37 IBAC.0007.0001.0014.

³⁴¹⁷ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 31 IBAC.0007.0001.0014.

³⁴¹⁸ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 36 IBAC.0007.0001.0014.

and his sending letters from the prison saying she was 'a dog, a police informer and that [she] should be killed'³⁴¹⁹

- Ms Gobbo was asked to obtain relevant diaries during the lunch break.³⁴²⁰

2451. At 1:13pm, Ms Gobbo rang Mr Fox during a break in proceedings. She indicated that Mr Fitzgerald was asking all the questions and that the first question she was asked was to list all the police officers with whom she had ever spoken, complaining this was open ended and risked divulging her human source role. Ms Gobbo said Mr Fitzgerald had adjourned the hearing so she could get her address book for more names. She was worried if it kept going she might have to divulge her relationship with the SDU. Ms Gobbo requested that Mr Peter Smith update Mr Sandy White, which he did.³⁴²¹

2452. At 1:43pm Mr Fox spoke with Ms Gobbo again, indicating Mr Sandy White's fury with the open-ended questioning. She was reminded to call a 'time out', if she thought her identity might be revealed. Ms Gobbo was told that Mr Sandy White would speak to Messrs Ryan and Overland.³⁴²²

2453. When the hearing resumed after the luncheon adjournment, the transcript of the examination reveals, amongst other matters, that:

- Ms Gobbo said she had not been able to retrieve her diary³⁴²³
- Ms Gobbo was asked about her understanding of how the relationship between Tony Mokbel and Carl Williams had developed during 2003, as she had previously referred³⁴²⁴
- Ms Gobbo spoke about her relationship with Mokbel, indicating her unhappiness with it, and at one point Mr Fitzgerald asked whether she had sought the intervention of any police with whom she was on friendly terms. Ms Gobbo said, 'not to intervene, no'. Mr Fitzgerald indicated that this suggested Ms Gobbo might have had some conversation with police about some aspects of this. Ms Gobbo responded that she had subsequently, but not at the time³⁴²⁵
- Ms Gobbo was further questioned about her relationship with Mr Dale following the burglary, her advice to Terrence Hodson, how she came to be aware that Messrs Argall and Dale were close, her involvement in attempting to facilitate contact between Messrs Hodson and Dale and whether she used Mr Argall³⁴²⁶

³⁴¹⁹ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 405 IBAC.0007.0001.0014.

³⁴²⁰ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 42 IBAC.0007.0001.0014.

³⁴²¹ Exhibit RC0281 ICR3838 (091), 19 July 2007, 1034 VPL.2000.0003.2620.

³⁴²² Exhibit RC0281 ICR3838 (091), 19 July 2007, 1035 VPL.2000.0003.2621.

³⁴²³ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 43 IBAC.0007.0001.0014.

³⁴²⁴ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 43 IBAC.0007.0001.0014.

³⁴²⁵ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 43-78 IBAC.0007.0001.0014.

³⁴²⁶ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 46-83 IBAC.0007.0001.0014.

- Mr Fitzgerald indicated that he was concerned as to Ms Gobbo's recollection of some matters, being more opaque than he would expect it could be, and continued to press her further³⁴²⁷
 - Mr Fitzgerald commented that Ms Gobbo was in a unique position, she knew most, if not all of the people involved and many would have seen her as safe to confide in as they at least had a chance of sustaining a claim of legal professional privilege³⁴²⁸
 - Ms Gobbo was being questioned about the conflicts or potential conflicts she would have with the various people involved.³⁴²⁹
2454. At 5:13pm, Ms Gobbo spoke with Mr Fox. She was very unhappy with the day's events, believing she had been asked lots of irrelevant questions about her relationships with various police officers. Ms Gobbo said she had to go back again the following day and threatened that she would not go. Mr Peter Smith updated Mr Sandy White.³⁴³⁰
2455. Ms Gobbo and Mr Fox spoke again at 8:22pm, Ms Gobbo wondered why she had been asked so many questions about Mr Argall. Ms Gobbo explained her relationship with Mr Argall, and in doing so told Mr Fox that she had previously provided information to police in the 1990s.³⁴³¹
2456. A few days later when Mr Fox spoke with Ms Gobbo, he told her that Mr Ryan had expressed shock to him when she had been asked questions about all the police she knew. He said that Mr Ryan had expressed the view that Ms Gobbo had been too long winded in answering the questions which had been put to her.³⁴³²

20 July 2007 – Argall Examination/Gobbo Examination Adjourned

2457. On the morning of 20 July 2007, Mr Sandy White spoke with Mr Ryan who confirmed he would be at the OPI at 1:00pm for Ms Gobbo's continued examination.³⁴³³
2458. Mr Moloney reported to Mr Biggin that he had seen Ms Gobbo crying as she was walking towards him in the city. This was conveyed to Mr Sandy White.³⁴³⁴
2459. That day, Mr Timothy Argall was examined by the OPI. Mr Argall was questioned about his involvement with Ms Gobbo, as well as her relationship with Mr Dale. Mr Argall indicated during this evidence that he had sought legal advice from Ms Gobbo on two to three occasions in 2003 to 2004, including whilst Mr Dale was present. Mr Argall said he sought advice as to

³⁴²⁷ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 78-79 IBAC.0007.0001.0014.

³⁴²⁸ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 82 IBAC.0007.0001.0014.

³⁴²⁹ Exhibit RC0318 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 19 July 2007, 94-95 IBAC.0007.0001.0014.

³⁴³⁰ Exhibit RC0281 ICR3838 (091), 19 July 2007, 1036 VPL.2000.0003.2622.

³⁴³¹ Exhibit RC0281 ICR3838 (091), 19 July 2007, 1036 VPL.2000.0003.2622.

³⁴³² Exhibit RC0281 ICR3838 (091), 22 July 2007, 1043 VPL.2000.0003.2629.

³⁴³³ Exhibit RC0305 Mr Sandy White diary, 20 July 2007, 1 RCMPI.0092.0001.0001 @.0001.

³⁴³⁴ Exhibit RC1325 Statement of Mr Danye Moloney, 28 November 2019, 14 [84-85] VPL.0014.0070.0025 @.0038; Exhibit RC0305 Mr Sandy White diary, 20 July 2007, 1 RCMPI.0092.0001.0001 @.0001.

his association with Mr Dale given he was under investigation, and that Mr Dale was also seeking advice from Ms Gobbo.

2460. Mr Argall's examination was not finished by the luncheon break.
2461. Ms Gobbo reported to Mr Fox that she had been called by the OPI and told not to attend, that the hearing had been delayed. She was told the OPI would ring her the following week in relation to a new date.³⁴³⁵ Mr Ryan was also advised by Mr John Nolan at the OPI that Ms Gobbo's hearing had been adjourned.³⁴³⁶

20 July 2007 – SDU Assess Gobbo as High Value

2462. On 20 July 2007, a meeting of the SDU took place. There was discussion as to the adjournment of the OPI hearing and Ms Gobbo's use in relation to Mr Karam.³⁴³⁷
2463. Following this Mr Sandy White completed a Monthly Source Review. He noted that the OPI hearing had been adjourned for a number of weeks. The Review noted that Ms Gobbo had ingratiated herself with Mr Karam, and there was an option for her to initiate conversation about the imported container. The risk to Ms Gobbo was considered to remain high given her involvement in the Karam matter, and the possibility of compromise related to the OPI hearings. Likewise, her value as a source was considered to remain high, particularly in relation to the commercial drug importations, which related to Karam, and police corruption issues, which related to the Petra and Briars Taskforces. Continued management by the SDU was deemed essential.³⁴³⁸

23 July 2007 – Report to Petra Taskforce Management Committee

2464. On 23 July 2007, Mr Ryan attended Mr Blayney's office regarding 'Purana/Petra'. Mr Blayney asked that Mr Ryan return to Petra for 3 months given the pending retirement of Mr O'Brien. Mr O'Connell was to be upgraded to fill Mr Ryan's position at the Petra Taskforce. Mr Ryan then spoke to Mr O'Brien about the matter.³⁴³⁹
2465. On 23 July 2007, a Petra Taskforce Management Committee meeting took place, attended by Messrs Overland, Cornelius, Ashton, Blayney and Ryan and Officer Terrasse.³⁴⁴⁰ The written update, minutes and handwritten notes included that:
- Mr Ryan had attended an OPI hearing on 19 July 2007 and that these hearings would continue in the next two to three weeks

³⁴³⁵ Exhibit RC0281 ICR3838 (091), 20 July 2007, 1039-1040 [NB. ICR incorrectly states 19 July 2007] VPL.2000.0003.2625-2626.

³⁴³⁶ Exhibit RC0312 Mr Gavan Ryan diary, 20 July 2007, 137 VPL.0005.0120.0187 @.0323.

³⁴³⁷ Exhibit RC0305 Mr Sandy White diary, 20 July 2007, 3 RCMP1.0092.0001.0001 @.0003.

³⁴³⁸ Exhibit RC0284 SML3838, 20 July 2007, 118 VPL.2000.0001.9447 @.9564.

³⁴³⁹ Exhibit RC0312 Mr Gavan Ryan diary, 23 July 2007, 137-138 VPL.0005.0120.0187 @.0323-.0324.

³⁴⁴⁰ Exhibit RC1770 Petra Taskforce Weekly Update, 23 July 2007, 366-369 VPL.0100.0013.0846 @.1211-.1214; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 23 July 2007, 109-111 VPL.0100.0129.0001 @.0109-.0111; Exhibit RC1769 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 23 July 2007, 352-353 VPL.0100.0001.5402 @.5753-.5754.

- ██████ told members he did not know anything about the Hodson murders. The ██████ statement had not been put to him
- a meeting was conducted at the Taskforce in relation to future direction of the investigation which included talking to Tony Mokbel upon his return, liaising with the OPI and another coercive body regarding future hearings
- Mr O'Connell would take over from Mr Ryan when he was on leave
- Mr Ryan had been approached to take over at the Purana Taskforce from Mr O'Brien for three months, which he had accepted
- Mr Ryan would continue to attend Petra Taskforce meetings along with Mr O'Connell
- Purana Taskforce meetings would follow Petra Taskforce meetings.

2466. It is submitted that the lack of reporting to the Petra Taskforce Management Committee of Ms Gobbo's attendance before the OPI on 19 July 2007 (and indeed her second appearance before the OPI on 17 August 2007 which received no report whatsoever) is conspicuous, especially given:

- the importance to the Petra Taskforce of corroborating Mr Carl Williams' statement as to how he came to meet Mr Dale when the arrangement to murder Mr Hodson was made
- it is contrasted to reports on compulsory hearings attended by others in relation to the investigation.

2467. It is submitted that a regular attendee, especially the Assistant Commissioner of ESD, absent knowledge of Ms Gobbo's status a human source, would likely have wanted an update. That there is no indication of any update being requested is consistent with:

- the regular attendees, Messrs Overland, Ashton, Cornelius and Ryan having knowledge of Ms Gobbo's status as a human source
- an ongoing concern to protect that status.

24 July 2007 – High Level Discussion about Legal Advice

2468. On 24 July 2007, at around 2:50pm, Mr Blayney spoke with Mr Biggin in relation to the meeting which was to occur at the Purana Taskforce that afternoon. The meeting had been directed by Mr Overland following concerns raised by Mr Blayney on 17 July 2007 about the use of Ms Gobbo. At about 3:00pm Mr Sandy White received a call from Mr O'Brien. Sandy White noted:

- *Request meeting with DC Overland re future viability of 3838 as witness*
- *4:30pm at Purana*³⁴⁴¹

2469. Following this Mr Sandy White spoke with Mr Biggin about the meeting, and they discussed the issues.³⁴⁴² Mr Biggin noted that the meeting was to

³⁴⁴¹ Exhibit RC0305 Mr Sandy White diary, 24 July 2007, 8 RCMPPI.0092.0001.0001 @.0008.

³⁴⁴² Exhibit RC0305 Mr Sandy White diary, 24 July 2007, 8 RCMPPI.0092.0001.0001 @.0008.

discuss the potential for Ms Gobbo to be a witness, the involvement of the [REDACTED] and her future deployment.³⁴⁴³

2470. At 4:30pm the meeting took place, and was attended by Messrs Blayney, Brown, Biggin, Ryan, O'Brien, Sandy White and O'Connell.³⁴⁴⁴ These comprised the Superintendents of the Crime Department and I&CS Department, and the officers in charge of Taskforces Purana and Petra, as well as Mr Sandy White from the SDU.
2471. Mr Blayney noted in his diary:
- *Ongoing management issues + risk – according to information + circs surrounding*
 - *Legal issues – considered not appropriate at this stage – poss. explore precedents*
 - *Need to ensure OPI engagement does not risk safety – D/C Overland*
 - *Careful mgt of involvement in ops – into source with tasking only in exceptional circs*
2472. Mr Biggin noted in his diary:
- *Witness/Witsec/future directions*
 - *Verbal briefing to D/C Overland*
 - *Legal opinion from Judge*
2473. Mr Sandy White noted in his diary:
- *Update re 3838*
 - *Agreed value of HS as source is outweighed by repercussions and risk to same*
 - *Agreed to continue deployment with no tasking, intel received to be assessed on individual basis and risk determination prior to any dissemination*
 - *Agreed TB, Sandy White, JB to brief D/C Overland re issues*
2474. Mr O'Brien noted in his diary:
- *Discussion re further handling issues re RHS*
2475. Mr O'Connell noted in his diary:
- *Meeting re HS matter for Purana/Petra*

³⁴⁴³ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 24 July 2007, 175 RCMP.0075.0001.0001 @.0175.

³⁴⁴⁴ Exhibit RC3444 Mr Graham Brown diary, 24 July 2007, 32 VPL.0005.0216.0001 @.0032; Exhibit RC0817 Mr John (Jack) Blayney diary, 24 July 2007, 76 VPL.0005.0241.0385 @.0460; Exhibit RC0933 Mr James (Jim) O'Brien diary, 24 July 2007, 86; Exhibit RC1347 Mr Shane O'Connell diary, 24 July 2007, 15 RCMP.0146.0001.0002 @.0015; Exhibit RC0305 Mr Sandy White diary, 24 July 2007, 8 RCMP.0092.0001.0001 @.0008.

2476. Mr Ryan's diary indicated he was on leave.

2477. Mr Sandy White in his evidence to the Commission:

- agreed that this was a meeting attended by senior officers, all considering what to do with Ms Gobbo
- agreed it made sense that they would have discussed the issues raised between he and O'Brien, including the need for legal advice.³⁴⁴⁵

2478. Mr Biggin said that he had no independent recollection of the meeting, but considered that it may have been a reference to the safety of Ms Gobbo should she become a witness, although was unable to specifically recall the meeting. He said in evidence that he is conscious now that the relationship between Ms Gobbo and the SDU involved the risk to the justice process, but could not recall whether that was discussed.³⁴⁴⁶

2479. When Mr Blayney gave evidence to the IBAC in 2014, he said that he had been told that the SDU had obtained legal advice although he could not recall who made that statement to him. Mr Blayney was asked about the second line of his diary entry, 'hypothetical legal opinion' which was his diary entry of 17 July, and he pointed out to the questioner that that related to a preliminary meeting. What he then described was his meeting with the SDU, because neither Mr Sandy White nor Mr Biggin were at the meeting on 17 July 2007:

Mr Blayney: *That the - and it was something that I focused on because I had actually asked that in a preliminary meeting as to what was the legal status, or the status around the legal privilege issue, because I believed if this source was going to be used in this way, that that had to be addressed from a technical point of view. So I was specific at that meeting, I thought that was the key thing that needed to be resolved as to the legality or the ethical consideration of the source learning things within a legal privilege situation and passing that on as information to the police, and I was assured that that was being managed and they had a legal advice that if it was outside the legal privilege binding then it was lawful.*

Mr Kirkham: *Can you tell me who gave you that advice?*

Mr Blayney: *I can't recall, sir. My view would be, it'd be the Source Development Unit, whether it was Sandy White or Tony Biggin. I cannot recall who actually had told me that. But that was my - my main consideration for that meeting was sort that issue out.³⁴⁴⁷*

³⁴⁴⁵ Transcript of Mr Sandy White, 3 September 2019, 5419-5420.

³⁴⁴⁶ Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7611-7612.

³⁴⁴⁷ See Exhibit RC0001.8 Transcript of IBAC examination of John (Jack) Blayney 17 November 2014, IBAC.0002.0001.0001.

2480. In evidence before the Commission he confirmed that the answers he gave to IBAC were truthful.³⁴⁴⁸
2481. In his evidence to the Commission Mr Blayney said he could not recall whether he was told this or he inferred it from the briefing given by Mr Sandy White about the way in which they were managing risks. He said based upon what he was told he walked away from the meeting with the view that legal advice had been obtained and that the SDU were acting on that advice in relation to their management of Ms Gobbo in the context of the information she was providing. Mr Blayney said he accepted that he was deliberately led to believe that legal advice had been obtained. He said during his evidence that despite what he had been told, he still had an uneasiness about the matter, which was reflected in his diary entry about exploring precedents.³⁴⁴⁹
2482. According to the SML written by Mr Sandy White, those present agreed that Ms Gobbo's value was outweighed by the 'risks to same', and that Victoria Police would continue to receive intelligence from Ms Gobbo, but assess it for risk prior to dissemination. It was also agreed that Mr Overland should be briefed 're issues' by Messrs Biggin, Sandy White and Blayney.³⁴⁵⁰
2483. Mr Sandy White later updated Mr Hardie, who had been unable to attend the meeting.³⁴⁵¹

- 2484. On the evidence, it is open to the Commissioner to find that:**
- 2484.1. at the meeting on 24 July 2007, the attendees discussed the potential of obtaining a legal advice from a judge specifically addressing Ms Gobbo's use as a human source**
 - 2484.2. that such a course was suggested by Mr Blayney and raised because he had concerns about the ethical propriety and legality of the use of Ms Gobbo as a human source**
 - 2484.3. that such a course was an obvious, appropriate and sensible course to take**
 - 2484.4. that there were measures that could have been easily taken to obtain a legal advice within Victoria Police or through the VGSO**
 - 2484.5. that no steps were taken to get a legal advice**
 - 2484.6. that if members of the SDU including Mr Biggin and Mr Sandy White and/or crime investigators including Mr Ryan,**

³⁴⁴⁸ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10291 TRN.2019.12.03.01

Mr Blayney was cross-examined on this issue and his evidence arguably became less certain, however his evidence concluded at T10291:

Mr Woods: I don't want to go through the IBAC transcript again in any detail but just simply to say it's the case, as I understand it, that you gave truthful answers to IBAC when you were asked the questions that I took you to earlier in the day?

Mr Blayney: Yes.

³⁴⁴⁹ Transcript of Mr John (Jack) Blayney, 3 December 2019, 10244-10256 TRN.2019.12.03.01.

³⁴⁵⁰ Exhibit RC0284 SML3838, 25 July 2007, 119 VPL.2000.0001.9447 @.9564.

³⁴⁵¹ Exhibit RC0305 Mr Sandy White diary, 26 July 2007, 11 RCMPI.0092.0001.0001 @.0011.

Mr O'Brien and Mr O'Connell had wanted to get a legal advice, they could easily have arranged one

2484.7. that the reason that a legal advice was not sought was because members of the SDU including Mr Biggin and Mr Sandy White and/or crime investigators including Mr Ryan, Mr O'Brien and Mr O'Connell chose not to obtain legal advice.

26 July 2007 – Briars Propose Tasking of Gobbo

2485. On 26 July 2007, a day after having agreed that Ms Gobbo would not be tasked, Mr Sandy White met with Mr Iddles at the OPI building, where the Briars Taskforce was based. They discussed the viability of Ms Gobbo passing information to Mr Waters for the purpose of [REDACTED]. This was to occur in approximately a month's time.³⁴⁵²
2486. Mr Iddles recalled Mr Sandy White being disappointed at receiving direction from the Briars Taskforce Management Committee to task Ms Gobbo when they had been trying to disengage or deregister her.³⁴⁵³

30 July 2007 – Briars Plan to Leak Co-Operation by Gregory

2487. On 30 July 2007, a Briars Taskforce Management Committee meeting took place attended by Messrs Cornelius, Ashton, and Wilson and Officer Terrasse. Mr Overland was an apology.³⁴⁵⁴
2488. The written update included a topic, Kit Walker. This related to an investigation arising out of an anonymous email campaign directed against a President of The Police Association, alleging the President had been running a vendetta against the Secretary, Paul Mullet, with the support of Chief Commissioner of Police, Ms Nixon. The emailer used the pseudonym, 'Kit Walker' and the campaign involved the unauthorised use of the Victoria Police email system. In February 2007, Messrs Ashton and Ryan, had been interviewed in an ABC Four Corners broadcast 'The Culture', which was a report into allegations against The Police Association. At about that time Mr Lalor was identified as the author of the emails, and attempts were subsequently made to interview him. In May 2007, following allegations by Mr Mullet of bias in relation the original ESD investigation in the matter, that investigation was suspended, following which the OPI had commenced an own motion investigation in July 2007.³⁴⁵⁵ An investigation was also being

³⁴⁵² Exhibit RC0305 Mr Sandy White diary, 26 July 2007, 11 RCMPI.0092.0001.0001 @.0011.

³⁴⁵³ Transcript of Mr Ronald (Ron) Iddles, 14 February 2020, 14120-14121 TRN.2020.02.14.01.

³⁴⁵⁴ Exhibit RC1753 Briars Taskforce Board of Management minutes, 30 July 2007, 17 IBAC.0010.0001.0525 @.0017.

³⁴⁵⁵ Office of Police Integrity, Exposing corruption within senior levels of Victoria Police, 25 January 2008, 8-10, RCMPI.0019.0001.0033. [publicly available]

conducted separately within Briars Taskforce, upon which Chief Commissioner Nixon was briefed.³⁴⁵⁶

2489. The Briars Taskforce update indicated that Messrs Overland, Wilson and Iddles had mapped out an investigation strategy, which it was agreed would be delayed to the end of August or early September, and that Mr Cornelius had agreed with the course of action and the matter was now before the committee for endorsement. Mr Cornelius noted that the endorsement was given on his copy of the update.
2490. Mr Cornelius made further notes on the update which indicate the discussion in relation to the Kit Walker strategy involved leaking information that Mr Gregory might be talking to police, and doing so by means of 'female visitors – lawyer'.³⁴⁵⁷

July to August 2007 – Purana Using Information from Gobbo about Client

2491. On 19 July 2007, Peter Pilarinos was intercepted by police in a vehicle. When it was searched police located a firearm and drugs. He was arrested and remanded into custody. It was also discovered that he had secured finance to purchase the vehicle using a false name. He was charged in relation to those matters.³⁴⁵⁸
2492. Ms Gobbo spoke to Mr Pilarinos following his arrest during the lunch break of her OPI examination.³⁴⁵⁹
2493. Ms Gobbo provided information concerning Mr Pilarinos following the time of her acting for him. On 24 July 2007, after having seen him in the morning, Ms Gobbo told Mr Fox that there was a large amount of cash apparently secreted in Mr Pilarinos' car which had not been located by police.³⁴⁶⁰ She repeated this information on 27 July 2007.
2494. On 24 July 2007, Ms Gobbo told Mr Fox that she had seen Mr Pilarinos in the morning. She then provided information concerning Mr Pilarinos' court hearing, including the outcome of the hearing, the name of the presiding Magistrate and information concerning the informant. She stated that she 'did not talk to Pilarinos much', suggesting that she appeared in court on behalf of Mr Pilarinos on that date.³⁴⁶¹
2495. On 27 July 2007, Ms Gobbo repeated that a large amount of cash was in Mr Pilarinos' vehicle and apparently not seized by arresting officers. The relevant ICR entry records that Mr O'Brien was 'adv (by Fox) and will attend

³⁴⁵⁶ Exhibit RC1753 Briars Taskforce Board of Management minutes, 15 March 2007, 2-3; 26 March 2007, 4; 10 April 2007, 5; 1 May 2007, 7; 7 May 2007, 8; 12 June 2007, 13; 22 June 2007, 14; 23 July 2007, 16; 30 July 2007, 17 IBAC.0010.0001.0525 @.0002-.0003, .0004, .0005, .0007, .0008, .0013, .0014, .0016, .0017.

³⁴⁵⁷ Exhibit RC0937 Briars Taskforce Update, 30 July 2007, 93-94 VPL.0100.0058.0798 @.0890-.0890; Exhibit RC0938 Assistant Commissioner Luke Cornelius, typed version of handwritten notes, 30 July 2007, 7 VPL.0013.0001.0220 @.0226.

³⁴⁵⁸ Exhibit RC1863 Reasons for Sentence, *R v Peter Adam Pilarinos* [2020] VCC 2033, 3 [9]–[11], 4 [12]–[15], COR.1026.0001.0011 @.0005; Exhibit RC1871 Summary of Prosecution Opening, *R v Peter Adam Pilarinos*, 155, 12 August 2010, OPP.0051.0001.0019 @.0155; Exhibit RC1871 Summary of Prosecution Opening, *R v Peter Adam Pilarinos*, 1, 12 August 2010, OPP.0051.0001.0019 @.0153.

³⁴⁵⁹ Exhibit RC0281 ICR3838 (091), 19 July 2007, 1030, VPL.2000.0003.2616.

³⁴⁶⁰ Exhibit RC0281 ICR3838 (092), 24 July 2007, 1053, VPL.2000.0003.2633; Exhibit RC0281 ICR3838 (093), 27 July 2007, 1073, VPL.2000.0003.2659.

³⁴⁶¹ Exhibit RC0281 ICR3838 (092), 24 July 2007, 1053, VPL.2000.0003.2633.

2500. Ms Gobbo continued to provided information to police concerning Mr Pilarinos (specifically concerning the apparently secreted cash in his vehicle), between 13 August 2007 and 29 August 2007.³⁴⁷¹
2501. The members of the SDU, Mr Sandy White, Mr Peter Smith and Mr Fox, and at least Mr O'Brien of the investigators were aware that the information being acted upon was obtained by Ms Gobbo from a client.
2502. It is submitted that the fact that Messrs Sandy White and O'Brien in particular were prepared to act on this information should be considered in light of:
- Mr Sandy White's discussion with Ms Gobbo on 3 July 2007 referred to above in which they spoke about cases being compromised by virtue of Ms Gobbo's involvement
 - Mr O'Brien's presence at the meeting of 17 July 2007 with Mr Overland referred to above in which Mr Blayney raised concerns about the use of Ms Gobbo and suggested obtaining a hypothetical legal advice
 - Mr Sandy White and Mr O'Brien's conversation on 18 July 2007 referred to above in which they spoke about matters including the need for legal advice in relation to the fallout of the use of Ms Gobbo
 - Mr Sandy White and Mr O'Brien's attendance on 24 July 2007 referred to above at a meeting where matters including legal advice and the ongoing use of Ms Gobbo were discussed.
2503. A Case Study in relation to Mr Pilarinos' cases is contained in Volume 3 of these submissions.

6 August 2007 - Meeting with Overland about Gobbo's Future

2504. On 6 August 2007, following the meetings on 17 and 24 July 2007, a meeting took place involving Messrs Overland, Biggin, Sandy White, Blayney and Ryan. Mr Sandy White recorded that Mr Overland was told about three options being discussed in relation to Ms Gobbo's ongoing management:
- deactivate Ms Gobbo as a human source
 - use Ms Gobbo as a witness
 - continue with ongoing management of Ms Gobbo as a human source, but with no tasking.
2505. Those at the meeting agreed that:
- Ms Gobbo could not be deactivated as there was an ongoing requirement for communication in relation to 'court issues' in the trials of the various Mokbels' who had been charged

³⁴⁷¹ Exhibit RC0281 ICR3838 (094), 13 August 2007, 1084, VPL.2000.0003.2662; Exhibit RC0281 ICR3838 (095), 16 August 2007, 1104, VPL.2000.0003.2680; Exhibit RC0281 ICR3838 (097) 29 August 2007, 1169, VPL.2000.0003.2738.

- Ms Gobbo could not be a witness, as her status as a human source would be compromised
 - the ongoing management of Ms Gobbo would continue, with no tasking and intelligence to be risk assessed with Mr Biggin prior to dissemination or actioning.
2506. The two options which were rejected, those of deactivation and Ms Gobbo becoming a witness, both related to the compromise of Ms Gobbo's role as a human source because of disclosure issues associated with court process. It is submitted that all present at the meeting must have clearly understood this, as well as the fact that Ms Gobbo's role had not to that point been compromised by any disclosure.
2507. Mr Sandy White gave evidence to the Commission that having earlier discussed the legal advice, and concerns he had about trials and convictions involving Mr Cooper and others, he probably raised those concerns at this meeting. Mr Overland said he had no recollection of those matters. Mr Overland accepted that if Mr O'Brien had such concerns, he would have raised them with him. Mr Overland said he believed he would have recalled if concern had been raised about something going wrong and he did not at any stage consider picking up the phone to Mr McRae, to seek an advice from him.³⁴⁷² Mr Blayney had raised those very issues with Mr Overland on 17 July 2007 which had again been discussed on 24 July 2007 in the lead up to this meeting.
2508. Mr Blayney said that the options discussed arose from the meeting on 24 July 2007. The additional step of Mr Biggin assessing all information was proposed to introduce a level of senior management oversight of disseminations that would give further comfort that checks and balances were in place.³⁴⁷³
2509. Having just agreed not to task Ms Gobbo, those at the meeting then discussed using Ms Gobbo to speak with the targets of both Petra Taskforce (Mr Dale) and Briars Taskforce (Mr Waters) [REDACTED]. Any such strategy was to be risk assessed prior to implementation.

17 August 2007 – Gobbo Recalled to OPI

2510. On 14 August 2007, Ms Gobbo was advised to reattend for examination at the OPI on 17 August 2007.³⁴⁷⁴ On 16 August 2007, Ms Gobbo was advised that Mr Ryan would be present in another room.³⁴⁷⁵
2511. On 17 August 2007, Mr Ryan again attended at the OPI and watched proceedings from Mr Brouwer's office.³⁴⁷⁶ The transcript of that hearing reveals that the examination commenced at 1:09pm, and that:

³⁴⁷² Transcript of Mr Simon Overland, 19 December 2019, 11780-11782 TRN.2019.12.19.01.

³⁴⁷³ Exhibit RC0069C Statement of Mr John (Jack) Blayney, 25 July 2019, 4-5 [24] VPL.0014.0010.0008 @.0011; Transcript of Mr John (Jack) Blayney, 3 December 2019, 10257-10258 TRN.2019.12.03.01.

³⁴⁷⁴ Exhibit RC0281 ICR3838 (094), 14 August 2007, 1087 VPL.2000.0003.2673.

³⁴⁷⁵ Exhibit RC0281 ICR3838 (095), 16 August 2007, 1101 VPL.2000.0003.2687.

³⁴⁷⁶ Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 14 [86] VPL.0014.0039.0001 @.0013; Exhibit RC0312 Mr Gavan Ryan diary, 17 August 2007, 144 VPL.0005.0120.0187 @.0330.

- at the outset of the hearing Mr Fitzgerald indicated his belief that Ms Gobbo did not tell the whole truth on the last occasion she attended, and in some instances told untruths³⁴⁷⁷
- Mr Livermore asked if Ms Gobbo had spoken to anyone about attending the OPI and giving evidence after 19 July 2007, to which she responded she had spoken to a lawyer, Mr Grigor, about the fact that she had to return, but she had not told people that she had been at the OPI giving evidence³⁴⁷⁸
- Mr Fitzgerald followed up seeking to know whether Ms Gobbo had discussed the fact that she had been to the OPI with anyone else. Ms Gobbo said she didn't think she could answer that and said she needed legal advice. Mr Fitzgerald responded that he did not understand. Ms Gobbo asked for a break to make a telephone call.³⁴⁷⁹

2512. The hearing was adjourned at 1:27pm.³⁴⁸⁰

2513. Ms Gobbo called Mr Flynn in tears seeking to speak with Mr Ryan.³⁴⁸¹ When she subsequently spoke with Mr Ryan, he advised her to get a lawyer to assist her at the hearing.³⁴⁸²

2514. The hearing resumed at 2:04pm.³⁴⁸³ The transcript reveals that:

- Mr Fitzgerald indicated to Ms Gobbo that she understood she was able to answer his last question in a qualified way. Ms Gobbo then indicated that she had spoken to another person, of whom and about which Mr Ryan was aware³⁴⁸⁴
- As Mr Livermore was about to proceed to further questioning, Ms Gobbo indicated that given Mr Fitzgerald's warning to her she should seek some legal advice³⁴⁸⁵
- Mr Fitzgerald indicated that he would allow that and indicated that he thought because of the course Ms Gobbo had chosen, the practice she had pursued, things had become quite complicated in her life. He said that if things were complicated for Ms Gobbo, he would rather she had a reputable lawyer negotiating on her behalf to ensure she disclosed everything frankly and comprehensively, than her trying to outwit the OPI which would have repercussions³⁴⁸⁶

³⁴⁷⁷ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 2 IBAC.0007.0001.0012.

³⁴⁷⁸ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 4-5 IBAC.0007.0001.0012.

³⁴⁷⁹ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 5 IBAC.0007.0001.0012.

³⁴⁸⁰ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 5 IBAC.0007.0001.0012.

³⁴⁸¹ Exhibit RC0281 ICR3838 (095), 17 August 2007, 1106 VPL.2000.0003.2692.

³⁴⁸² Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, 14 [86] VPL.0014.0039.0001 @.0014.

³⁴⁸³ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 5 IBAC.0007.0001.0012.

³⁴⁸⁴ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 5-6 IBAC.0007.0001.0012.

³⁴⁸⁵ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 6 IBAC.0007.0001.0012.

³⁴⁸⁶ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 7-8 IBAC.0007.0001.0012.

- Mr Fitzgerald indicated that Ms Gobbo would really need to be forthcoming with whomever she engaged so that she might be properly advised ³⁴⁸⁷
- Ms Gobbo indicated that when she spoke to Mr Grigor it was in relation to a question of privilege. ³⁴⁸⁸

2515. There was an indication that the hearing would resume within weeks. ³⁴⁸⁹

2516. On 20 August 2007, Mr Ryan attended at Mr Overland's office to provide an update in relation to both Taskforce Petra and Purana. ³⁴⁹⁰ The minutes of the Petra Update indicate that Messrs Overland, Cornelius, Ashton, Hollowood, Ryan and Officer Terrasse were present, and that Mr Ryan provided a verbal update with no written update. The minutes make no reference to Ms Gobbo's re-attendance at the OPI. ³⁴⁹¹

2517. Mr Carl Williams had made a statement in which he said Ms Gobbo had put him in touch with Mr Dale in the lead up to the murder of the Hodsons, including in relation to the very meeting at which the 'hit' was taken out. What she would say as to her involvement or knowledge of these events was critical.

2518. It would not be doubted that Mr Ryan had reported the events at the OPI to Mr Overland, and Mr Ashton was present. It is submitted that, again, the continuing absence of enquiry, particularly by Mr Cornelius is conspicuous.

What had the OPI been Told about Ms Gobbo?

2519. There is conflicting evidence as to when and what those involved in investigations at the OPI were told about Ms Gobbo's role as a human source.

2520. There is no reliable contemporaneous record of what information was conveyed to Mr Brouwer or Mr Fitzgerald, and as to when and in what circumstances that occurred. Mr Overland was keeping a diary during this period, but there is an absence of note taking by him in relation to these matters. Similarly, there is an absence of note taking by Mr Ryan in respect of his discussions with Mr Overland. The Commission was left with third hand hearsay as to what the OPI were told, which had been conveyed to them by Mr Ryan, who had spoken to Mr Overland, who would likely have spoken to Mr Ashton about any of these things before speaking with anyone else at the OPI.

2521. The SDU material records discussions with Ms Gobbo or reports from Mr Ryan. It variously indicates that Mr Fitzgerald had been spoken to or could be spoken to about the matters. It also indicates that he had been told about her role as a human source, or that he could be given explanation of

³⁴⁸⁷ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 10 IBAC.0007.0001.0012.

³⁴⁸⁸ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 10 IBAC.0007.0001.0012.

³⁴⁸⁹ Exhibit RC0320 Transcript of examination of Ms Nicola Gobbo, OPI hearing, 17 July 2007, 10 IBAC.0007.0001.0012.

³⁴⁹⁰ Exhibit RC0312 Mr Gavan Ryan diary, 20 August 2007, 145 VPL.0005.0120.0187 @.0331.

³⁴⁹¹ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 20 August 2007, 127 VPL.0100.0129.0001 @.0127.

her assistance, possibly as the lawyer of clients who had co-operated, and the Purana investigation of threats against her as a consequence. The latter explanation seems to be more likely.

2522. Mr Brouwer told the Commission that he no longer had a clear recollection of these events, their details or sequence, as he was engaged in a considerable number of other investigations during this period. He went on:

On the issue of police informant management and witness protection I would point to a number of reports I made to the Parliament, which are on the public record, and in which I also dealt with the issue of what had been termed 'noble cause corruption' – a particular aspect which may be relevant to Ms Gobbo's case although I suspect this phenomenon is not unique to it. I have in mind Ms Gobbo's double dealing with her clients and any police encouragement of it. I should, however, emphasise that I had no reason to be aware of that double dealing or the police force's awareness of those activities, or any reason to believe that officers of the OPI had any such belief.³⁴⁹²

2523. Like Mr Brouwer, Mr Fitzgerald no longer had a clear recollection of events. Mr Fitzgerald believed that he had been told that Victoria Police considered that Ms Gobbo might have material information, and that he was either told or inferred that Victoria Police had spoken to Ms Gobbo in the course of its investigation. He stated that to the best of his recollection he was not told Ms Gobbo was a human source, which he believed he would recall had he been told.³⁴⁹³

2524. It is submitted that, given Mr Ryan sat in Mr Brouwer's office during Ms Gobbo's examinations, the protective statement made by Mr Fitzgerald to Ms Gobbo at the commencement of her first examination, and Ms Gobbo's request for an adjournment to speak with Mr Ryan at her second examination, it appears clear Messrs Brouwer and Fitzgerald were given at least some information about Ms Gobbo's involvement with Victoria Police.

2525. **On the evidence, it is open to the Commissioner to find that, if Messrs Brouwer or Fitzgerald were told that Ms Gobbo was assisting police, the evidence demonstrates that they were not told the nature and extent of such assistance and may simply have been told that either:**

- **she had represented a number of persons who became Purana witnesses and subsequently had received death threats. It is noted that this was the reason promulgated by Victoria Police at other times where it was contemplated that someone outside those who already knew the nature and extent of Ms Gobbo's assistance were to be given any such information; or**
- **only that Ms Gobbo was co-operating with the police investigation in relation to Mr Dale.**

2526. **That is so, because the records of Ms Brouwer and Mr Fitzgerald indicate that if they were informed of the nature and extent of Ms Gobbo's assistance to Victoria Police, the Commissioner could be**

³⁴⁹² Exhibit RC1509 Statement of Mr George Brouwer, 24 February 2020 COM.0108.0001.0001.

³⁴⁹³ Exhibit RC0989 Statement of Mr Gerald Fitzgerald, 20 December 2019 COM.0099.0001.0001.

confident that they would have taken appropriate action. In particular:

- **Mr Brouwer's record of conducting inquiries in relation to Victoria Police corruption issues, especially those associated with informer management**
- **Mr Fitzgerald's former role investigating police corruption in Queensland.**

17 August 2007 – Discussion of Legal Advice for Gobbo

2527. Following the hearing Mr Ryan provided an update to Mr Sandy White.³⁴⁹⁴ Following this Mr Ryan rang Crown Prosecutor, Mr Geoff Horgan, and without disclosing Ms Gobbo's identity, sought his advice about counsel who might be appropriate to represent her. He was given three names.³⁴⁹⁵
2528. When Mr Fox spoke to Ms Gobbo later that evening, he told her that there had been meetings 'high up' at Victoria Police which had resulted in the names of a number of counsel considered by Victoria Police trustworthy. They discussed the names of counsel which Mr Ryan had obtained from Mr Horgan.³⁴⁹⁶
2529. Following this, Ms Gobbo reported to the SDU that Ian Hill QC would represent her, and as to his initial advice.³⁴⁹⁷ Mr Ian Hill's recollection is that Ms Gobbo spoke to him on an informal basis about the powers of coercive bodies such as the OPI and the ACC, and as to his preparedness to represent her, but that nothing came of it.³⁴⁹⁸ This is consistent with Ms Gobbo not ultimately being required to appear before the OPI a third time.
2530. The involvement of senior counsel for Ms Gobbo was potentially an opportunity for some scrutiny of Ms Gobbo's role with Victoria Police, however that was not going to occur. There was discussion about Ms Gobbo not telling her legal representative about her role as a human source. Mr Sandy White suggested an alternate explanation that could be proffered which would not cause an issue; that due to her representation of someone who became a witness for the Purana Taskforce, she had been blamed by Tony Mokbel and received death threats as a result. Mr Sandy White indicated that Mr Ryan knew about this explanation.³⁴⁹⁹ A few months later, when Ms Gobbo received further threats, she asked the SDU whether she

³⁴⁹⁴ Exhibit RC0312 Mr Gavan Ryan diary, 17 August 2007, 145 VPL.0005.0120.0187 @.0331; Exhibit RC0305 Mr Sandy White diary, 19 August 2007, 29 RCMP.0092.0001.0001 @.1140.

³⁴⁹⁵ Exhibit RC0312 Mr Gavan Ryan diary, 17 August 2007, 145 VPL.0005.0120.0187 @.0331.

³⁴⁹⁶ Exhibit RC0281 ICR3838 (095), 17 August 2007, 1106 VPL.2000.0003.2692.

³⁴⁹⁷ Exhibit RC0281 ICR3838 (097), 27 August 2007, 1158-1159 VPL.2000.0003.2744-2745; Exhibit RC0281 ICR3838 (097), 28 August 2007, 1161 VPL.2000.0003.2747.

³⁴⁹⁸ Exhibit RC0971 Statement of Mr Ian Hill, 9 May 2019, 1 [7] COM.0042.0001.0001 @.0001.

³⁴⁹⁹ Exhibit RC0281 ICR3838 (096), 23 August 2007, 1138-1139 VPL.2000.0003.2723-2724 It is likely that this was the scenario given to those in the hierarchy at the OPI other than Mr Ashton, in an attempt to avoid questions being asked of Ms Gobbo that might lead to the revelation of her status as a human source.

could tell Mr Hill about them. It was agreed that she could tell him about the threat, but not provide specific details.³⁵⁰⁰

2531. The evidence demonstrates that there had been an intention that Ms Gobbo would be called back to the OPI within a reasonably short period, however there were delays in rescheduling further hearings whilst Ms Gobbo made arrangements for representation and further when Mr Fitzgerald became unavailable. In September 2007, it was suggested that a hearing might be avoided if Ms Gobbo provided a statement answering questions which were provided to her. Ms Gobbo told the SDU that the questions covered topics including all her dealings with police past and present, the Dublin Street burglary, the Hodson murders, and major criminal identities with whom she had an association. Ms Gobbo did not provide a statement.³⁵⁰¹

September 2007 – Iddles and SDU Discuss Gobbo Tasking

2532. On 31 August 2007, Mr Iddles rang Mr Sandy White and told him that a phone call had been intercepted in which Mr Waters was given a message that he had to meet with a female lawyer with blonde hair that day. Mr Iddles presumed it was Ms Gobbo.³⁵⁰² He was correct.
2533. A few hours later, Ms Gobbo reported to Mr Fox an ‘unannounced’ attendance on her in chambers by Mr Waters. She said he had asked if she had been called to the OPI, which as previously discussed by the SDU with her, she responded she could not say whether she had or who she might have been there to represent. Mr Waters then told her that Bob Hodgkin had been called and that anyone connected to him might also be called.³⁵⁰³
2534. Following this Messrs Sandy White and Fox spoke, including about why Ms Gobbo had lied in relation to having not arranged the meeting. Mr Sandy White then spoke with Mr Iddles about the matter. They surmised that Ms Gobbo was attempting to get information about which police might have appeared at OPI hearings regarding herself. Mr Iddles indicated he was keen for Ms Gobbo to attend lunch with Mr Waters and his associates.³⁵⁰⁴
2535. On 6 September 2007, Mr Sandy White met with Mr Iddles and further discussed the use of Ms Gobbo to pass on information to Waters [REDACTED]. Mr Iddles said he would send [REDACTED] by email.³⁵⁰⁵
2536. Following this, Mr Sandy White discussed the tasking with Mr Fox, which they agreed would occur. They also discussed that Mr Waters had commenced an appearance at the OPI and it was possible that Ms Gobbo would be contacted immediately afterwards.³⁵⁰⁶

³⁵⁰⁰ Exhibit RC0281 ICR3838 (105), 16 October 2007, 1302-1303 VPL.2000.0003.2888-2889.

³⁵⁰¹ Exhibit RC0281 ICR3838 (100), 18 September 2007, 1226-1228 VPL.2000.0003.2812-2814; Exhibit RC0281 ICR3838 (106), 25 October 2007, 1320 VPL.2000.0003.2906.

³⁵⁰² Exhibit RC0305 Mr Sandy White diary, 31 August 2007, 38-39 RCMP.0092.0001.0001 @.0038-.0039.

³⁵⁰³ Exhibit RC0281 ICR3838 (098), 31 August 2007, 1178 VPL.2000.0003.2764.

³⁵⁰⁴ Exhibit RC0281 ICR3838 (098), 31 August 2007, 1178 VPL.2000.0003.2764; Exhibit RC0305 Mr Sandy White diary, 31 August 2007, 38-39 RCMP.0092.0001.0001 @.0038-.0039.

³⁵⁰⁵ Exhibit RC0284 SML3838, 6 September 2007, 123 VPL.2000.0001.9447 @.9569.

³⁵⁰⁶ Exhibit RC0284 SML3838, 6 September 2007, 123-124 VPL.2000.0001.9447 @.9569-.9570.

2537. On Saturday, 8 September 2007 at 10:35am, Ms Gobbo reported to Mr Fox having received a call from Mr Waters, who wanted to see her. Ms Gobbo said she was going to meet Mr Waters at a building site in Kent Street, Richmond at around midday. This conversation was reported to Mr Iddles.³⁵⁰⁷
2538. Ms Gobbo later reported on the meeting with Mr Waters. She said others, including Mr Lalor, were on site although she did not see them. Ms Gobbo said that Mr Waters spoke to her about his summons to the OPI which had been adjourned to the following week. She suspected that he would come and see her after the hearing for advice about being charged, and that he knew he could be charged on the spot.³⁵⁰⁸

10 September 2007 – The Doodle

2539. On 10 September 2007, a meeting of the Briars Taskforce Management Committee took place between 4:05pm and 4:45pm. This was attended by Messrs Overland, Cornelius, Wilson and Terrasse. Mr Ashton was an apology.³⁵⁰⁹
2540. There was discussion of Ms Gobbo's meeting with Mr Waters at the building site in Richmond. Mr Overland's handwritten note read:³⁵¹⁰

Sat Richmond – Kent St – Lalor – 10-12

Gobbo to site – met on site – conversation about OPI hearings

2541. Mr Overland agreed that given his writing of Ms Gobbo's name, it was likely that her name was used. He was asked whether that was a basis upon which he would say that those present would know of Ms Gobbo's role as a human source. He responded that 'they knew who she was because she was in a way a potential witness in these matters'.³⁵¹¹
2542. The written update included the topic 'Investigation strategy' which included 'Tasking of 3838'. There was discussion about this matter during this meeting.
2543. Relevant to this, Mr Cornelius made notes during the meeting as depicted below,³⁵¹² alongside a typed version of his notes which Mr Cornelius said was produced for later court criminal and civil proceedings relating to Messrs Ashby, Mullet and Linnell was as follows:³⁵¹³

³⁵⁰⁷ Exhibit RC0281 ICR3838 (099), 8 September 2007, 1202 VPL.2000.0003.2788.

³⁵⁰⁸ Exhibit RC0281 ICR3838 (099), 8 September 2007, 1203 VPL.2000.0003.2789.

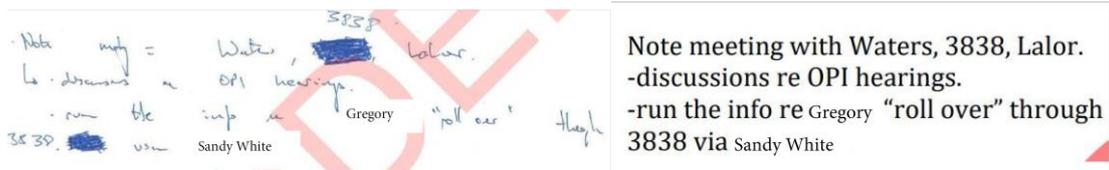
³⁵⁰⁹ Exhibit RC1753 Briars Taskforce Board of Management minutes, 10 September 2007, 23 IBAC.0010.0001.0525 @.0023; Exhibit RC1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 10 September 2007, 73 VPL.0100.0058.0798 @.0870; Exhibit RC0901 Briars Taskforce Update, 10 September 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 74-75 VPL.0100.0058.0798 @.0871.

³⁵¹⁰ Exhibit RC0902 Briars Taskforce Update, 10 September 2007 with handwritten notes of Mr Simon Overland, 151 IBAC.0010.0001.0529 @.0151.

³⁵¹¹ Transcript of Mr Simon Overland, 19 December 2019, 11784-11785 TRN.2019.12.19.01.

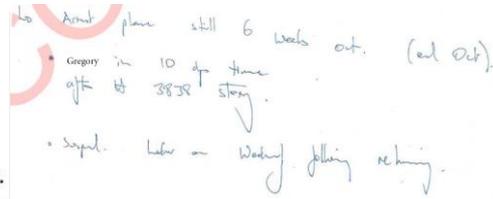
³⁵¹² Exhibit RC1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 10 September 2007, 73 VPL.0100.0058.0798 @.0870; Exhibit RC0901 Briars Taskforce Update, 10 September 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 74-75 VPL.0100.0058.0798 @.0871

³⁵¹³ Exhibit RC0938 Assistant Commissioner Luke Cornelius, typed version of handwritten notes, 10 September 2007, 4 VPL.0013.0001.0220 @.0224.



and further:

- Arrest phase still 6 weeks out. (end Oct).
- Gregory in 10 days time after the 3838 story.
- Suspend Lalar on Wednesday following re hearing.



2544. It is submitted that, as is apparent from the handwritten note above, Mr Cornelius had written something other than '3838' when he was first recording the briefing being received as to the meeting between Ms Gobbo and Mr Waters. Mr Overland recorded Ms Gobbo's name as having been used in this context.
2545. Mr Cornelius again wrote something other than '3838' when following on from this discussion there was reference to the strategy of using Ms Gobbo to leak the information about Mr Gregory's co-operation with the police.
2546. In his statement to the Commission, Mr Cornelius said:
- he cannot recall being aware at the meeting that '3838' was Ms Gobbo
 - he recalled those at the meeting being keen to understand what had been discussed at the meeting and it was agreed that '3838' would be tasked to engage in further discussion which it was intended would be recorded to corroborate what '3838' had told police
 - he did not recall why he had 'crossed out' something and written '3838' near the part crossed out
 - he did not think it likely that he crossed out Ms Gobbo's name, rather he initially misheard the number and corrected it during the meeting.³⁵¹⁴
2547. When it was suggested that the reason he had so heavily scratched out the entry was because he had included the name of a human source, Mr Cornelius responded that he had written the wrong number and *'if anything the scratching out is more of a doodle than anything else'*.³⁵¹⁵

2548. **On the evidence, it is open to the Commissioner to reject Mr Cornelius' denial of the use of Ms Gobbo's name during the meeting. That is so because:**
- a. **as indicated by Mr Overland, his writing of 'Gobbo' indicated that Ms Gobbo was referred to by name**

³⁵¹⁴ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 10-11 [71]. VPL.0014.0057.0001 @.0010; Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12313 TRN.2020.01.23.01.P

³⁵¹⁵ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11136 TRN.2019.12.12.01.

- b. **the correct informer number was contained in the written update a few lines up from Mr Cornelius' handwritten entry**
- c. **the scrubbing out of the entry.**

2549. Mr Cornelius initially told the Commission that he had a strong recollection of this event. When asked if he could be wrong, he ultimately said he was not certain and that it was his 'strong sense'. Later still he said he had no direct recollection, and that 'it looks to me like, you know, I've sort of drawn a box around what I believed to have been the wrong number and I've effectively coloured it in over the course of the meeting.'³⁵¹⁶
2550. Mr Cornelius based this 'strong sense' on the belief that if he had found out at that time that '3838' was a lawyer he would have done something about it; it would have caused him to question what had been going on and to have some serious discussion with Mr Overland.³⁵¹⁷ Mr Cornelius conceded that he learned of Ms Gobbo's status as a human source by around March 2009. There was no sign of any questioning by him at that time.
2551. Mr Ashton, who was not present at this meeting, told the Commission he did not recall being told of Ms Gobbo's tasking to disseminate information in 2007 for the Briars Taskforce.³⁵¹⁸

10 September 2007 – Sandy White and Iddles Discuss Gobbo Tasking

2552. Also, on 10 September 2007 at 4:15pm, Mr Sandy White had a further meeting with Mr Iddles in relation to the tasking of Ms Gobbo.³⁵¹⁹ Following the meeting, Mr Iddles emailed Mr Sandy White requesting that Ms Gobbo pass on to Mr Waters the following information:
- Mr Gregory was to be charged with another murder in the next two to three weeks
 - Mr Gregory had made a statement implicating Messrs Waters and Lalor in the preparation of the murder, and was prepared to give evidence
 - the murder has something to do with a 'vampire'
 - Mr Gregory had mentioned something to do with an address with Messrs Waters and Lalor got for him, and if the investigators found which computer or database it came from they were confident of charging them.³⁵²⁰

³⁵¹⁶ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11136-11137 TRN.2019.12.12.01.

³⁵¹⁷ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11137 TRN.2019.12.12.01.

³⁵¹⁸ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10732 TRN.2019.12.09.01.

³⁵¹⁹ Exhibit RC0305 Mr Sandy White diary, 10 September 2007, 51 RCMP1.0092.0001.0001 @.0051.

³⁵²⁰ Exhibit RC0511 Email from Ronald (Ron) Iddles to Sandy White, 10 September 2007 VPL.6025.0001.6728.

12 September 2007 – Gobbo Tasking for Briars

2553. On 12 September 2007 Mr Fox spoke with Ms Gobbo and told her that Mr Waters would be finishing his examination at the OPI soon, if he hadn't already. Ms Gobbo already knew he was being examined from her discussion with him the previous week. She was told that Mr Waters would be told that he was a suspect for a murder and that investigators thought he might try and contact her. They discussed whether Mr Waters would be suspicious if she contacted him and she said he would not be. She said she was confident he would talk to her about it '*re legal advice*'. Following this Mr Fox tasked Ms Gobbo to provide Mr Waters with the information as had been requested by Mr Iddles.
2554. There was further discussion about how Ms Gobbo could arrange to meet Mr Waters. She suggested she could get a message to him through other people (as she had previously done when she told the SDU she had had an unannounced visit from him).
2555. They spoke further about a venue for meeting. It was agreed it was best if he came to her chambers or they met at the café downstairs, as it would look as though he was receiving legal advice.³⁵²¹
2556. On 13 September 2007, Ms Gobbo said she had passed on a message through another person that she had some 'mail' for him.³⁵²² Later that day she reported on a meeting with Mr Waters. He told her what had occurred at the OPI. She recited to him the information she had been given and reported that he did not understand what she meant when she referred to the address. Mr Waters then spoke to her about what he knew of the murder. Mr Fox reported the conversation to Mr Iddles.³⁵²³

September - October 2007 – More Impetus for Briars to Use Gobbo

2557. On 19 September 2007 Ms Gobbo relayed to her handler a meeting at the Mitre Tavern, Bank Place, Melbourne with Mr Waters and solicitor Mr Warren Peacock. Amongst other matters reported by Ms Gobbo was that Mr Waters had asked her if she knew in which prison Mr Gregory was being kept, that Mr Lalor had assured Mr Waters he had not accessed the police database or any other database to obtain Mr Chartres-Abbott's address, and that Mr Waters wanted to have a meal with Ms Gobbo the following week. This report of this meeting was conveyed to Mr Iddles.³⁵²⁴
2558. On 20 September 2007, at 8:00am, Mr Wilson was briefed with this information by Mr Iddles. Mr Wilson regarded this as significant as it related to the key issue as to how Mr Chartres-Abbott's address had been obtained and provided to those who shot him.³⁵²⁵

³⁵²¹ Exhibit RC0281 ICR3838 (100), 12 September 2007, 1211-1212 VPL.2000.0003.2797-2798.

³⁵²² Exhibit RC0281 ICR3838 (100), 13 September 2007, 1214 VPL.2000.0003.2800.

³⁵²³ Exhibit RC0281 ICR3838 (100), 13 September 2007, 1215-1216 VPL.2000.0003.2801-2802.

³⁵²⁴ Exhibit RC0281 ICR3838 (101), 19 September 2007, 1233-1234 VPL.2000.0003.2819-2820.

³⁵²⁵ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 6-7 [37-38]

VPL.0014.0094.0001. @.0006-.0007; Exhibit RC0828 Mr Rodney Wilson diary, 20 September 2007, 146-147 RCMPI.0118.0001.0001 @.0146-.0147.

2559. Following this, at 8:55am, Mr Wilson briefed Mr Cornelius, including that there were arrangements for '3838' and Mr Waters to have dinner together the following week.³⁵²⁶
2560. It is submitted that the evidence suggests that Mr Cornelius then spoke about the matter with Mr Overland.
2561. Mr Wilson recorded in his diary that at 1:00pm, Mr Cornelius told Mr Wilson that Mr Overland would speak to the handler of '3838' to see what could be done to assist the Briars Taskforce investigation.³⁵²⁷
2562. What is apparent from the subsequent conversation that Mr Overland had with Messrs Biggin and Sandy White, was that the Briars Taskforce wanted a recording.
2563. On 21 September 2007, at 8:30am, Mr Overland met with Messrs Biggin and Sandy White.³⁵²⁸ He asked that they consider using Ms Gobbo to [REDACTED] Mr Waters for [REDACTED]. Mr Sandy White advised against this saying that if Ms Gobbo participated in conversations which became evidentiary, she would then become a witness, whether voluntarily or by compulsion, and there would be a high likelihood of her assistance to Victoria Police becoming known. Mr Overland then raised the possibility of capturing the conversation without Ms Gobbo's knowledge. Mr Sandy White again advised against this indicating that the situation would be the same if Ms Gobbo were forced into a witness box. He further advised that Ms Gobbo had not received any admissions or potentially useful prosecution evidence, nor was any to be expected.
2564. It was agreed that Ms Gobbo would be tasked to meet with Mr Waters and keep communications going. They were to reassess the value after each meeting keeping in mind that if Mr Waters was to make useful statements, then Ms Gobbo be deployed to [REDACTED].
2565. During the conversation Mr Biggin opined that Ms Gobbo had greater potential value to the Petra investigation than to the Briars investigation.
2566. They also discussed the need to keep Ms Gobbo 'on the books' until Tony Mokbel's return to Australia following his serving a 12-month sentence in a Greek gaol.
2567. Following the meeting, Mr Biggin advised Mr Sandy White to keeping managing Ms Gobbo in the usual manner and not to task her outside of what would normally be expected, and not to force her on to Mr Waters. Mr Sandy White then updated Mr Fox.³⁵²⁹
2568. On 24 September 2007, there was a meeting of the Briars Taskforce Management Committee. It is unclear whether Mr Overland attended this

³⁵²⁶ Exhibit RC0828 Mr Rodney Wilson diary, 20 September 2007, 146-147 RCMP1.0118.0001.0001 @.0146-.0147.

³⁵²⁷ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 7 [39] VPL.0014.0094.0001 @.0007; Exhibit RC0828 Mr Rodney Wilson diary, 20 September 2007, 147 RCMP1.0118.0001.0001 @.0147.

³⁵²⁸ Exhibit RC0305 Mr Sandy White diary, 21 September 2007, 65-66 RCMP1.0092.0001.0001 @.0065-.0066.

³⁵²⁹ Exhibit RC0305 Mr Sandy White diary, 21 September 2007, 66 RCMP1.0092.0001.0001 @.0066.

meeting. No minutes are apparent on various files of either the Briars or Petra Taskforce for this day, suggesting perhaps not. The meeting appears otherwise to have been attended by Messrs Cornelius, Ashton, and Waddell.³⁵³⁰

2569. Mr Cornelius' handwritten notes evidence discussion of concern about the credibility of Mr Gregory, upon an aspect of his evidence being disproven in relation to Mr Goussis' involvement.³⁵³¹

2570. Mr Cornelius further noted that Mr Gregory was to be charged the following week and there was a desire for publicity about this, followed by 're 3838'. Mr Cornelius said they wanted publicity [REDACTED]
[REDACTED].³⁵³²

2571. It is apparent that it was hoped the publicity would assist in gathering further evidence, or at least intelligence, from Ms Gobbo.

2572. On 1 October 2007, a Briars Taskforce Management Committee meeting took place, attended by Messrs Overland, Cornelius, Ashton, Waddell and Terrasse, with Mr Wilson an apology. The minutes include that there was 'discussion re update' and that Mr Waddell was to advise Mr Overland of the name of Mr Gregory's legal representative.³⁵³³

2573. The written update noted that Mr Gregory's arraignment and plea hearing was to be held on 11 or 12 October 2007, and a public statement was to be prepared.

2574. Mr Cornelius noted at the bottom of the update:

(Steve Waddell) to (speak to) Sandy White re 3838 + further meeting (with) Waters

2575. This was consistent with the hope that there would be further conversations between Ms Gobbo and Mr Waters of benefit to the Briars Taskforce investigation.

³⁵³⁰ Exhibit RC1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 24 September 2007, 52 VPL.0100.0058.0798 @.0849; Exhibit RC0993 Briars Taskforce Update, 24 September 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 53-54 VPL.0100.0058.0798 @.0850- .0850.

³⁵³¹ Exhibit RC1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 24 September 2007, 52 VPL.0100.0058.0798 @.0849; Exhibit RC0993 Briars Taskforce Update, 24 September 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 53-54 VPL.0100.0058.0798 @.0850- .0850; Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12316 TRN.2020.01.23.01.

³⁵³² Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12316 TRN.2020.01.23.01.

³⁵³³ Exhibit RC1753 Briars Taskforce Board of Management minutes, 1 October 2007, 25 IBAC.0010.0001.0525 @.0025; Exhibit 1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 1 October 2007, 49 VPL.0100.0058.0798 @.0846; Exhibit RC0994 Briars Taskforce Update, 1 October 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 50-51 VPL.0100.0058.0798 @.0847-.0848; Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12316 TRN.2020.01.23.01.

3 October 2007 – Further Tasking for Gobbo

2576. On 3 October 2007, Ms Gobbo reported that a lunch had been arranged with Mr Waters and others on Friday, 5 October 2007. She was tasked to provide information to Mr Waters about:
- the date of Mr Gregory's plea
 - that she had heard Mr Gregory was at [REDACTED], but did not know what unit, and that he might be moved soon
 - that police were confident they were close to finding how the address was checked and then charging Messrs Waters and Lalor
 - that if Mr Waters wanted to talk about the address issue, she could tell him they believed it had something to do with the Reservoir Police Station.³⁵³⁴
2577. On 4 October 2007, Ms Gobbo reported a visit by Mr Waters to her in chambers. Ms Gobbo passed on the information to him, and his reaction to it. During the meeting Mr Waters asked about Mr Trichias having contact with Mr Gregory. This conversation was disseminated to Mr Iddles.³⁵³⁵ Later that day, Ms Gobbo was told she could tell Mr Waters that Messrs Trichas and Iddles both saw Mr Gregory regularly, at least once a fortnight.³⁵³⁶
2578. On 5 October 2007, Ms Gobbo reported on the lunch with Mr Waters to Mr Fox. This included that Mr Waters wanted to come and see her the following Tuesday afternoon (9 October 2007) in case she had more updates for him. Mr Lalor had been away and would be back the following day before going away again. She indicated Mr Waters would tell her what Mr Lalor said about her 'update' once he'd had a chance to talk to him. This report was conveyed to Mr Iddles.³⁵³⁷
2579. On 6 October 2007, Ms Gobbo reported that Mr Waters had called and wanted to see her again. She believed he had spoken with Mr Lalor and wanted more information. She told him she would be in chambers the following day and could see him then if he wanted. Mr Iddles was updated.³⁵³⁸
2580. On 8 October 2007, Ms Gobbo was told she could tell Mr Waters that the plea hearing for Mr Gregory would be the following Thursday, 12 October 2007, that it would be in a closed, secure court and there would be an application for an order suppressing publication of the hearing.³⁵³⁹
2581. On 9 October 2007, Ms Gobbo met with Mr Waters and passed on the information. She then reported on the meeting to Mr Fox at 4:00pm. Mr Waters indicated that he would see her again on Thursday, following Mr

³⁵³⁴ Exhibit RC0281 ICR3838 (103), 3 October 2007, 1259 VPL.2000.0003.2845.

³⁵³⁵ Exhibit RC0281 ICR3838 (103), 4 October 2007, 1265-1266 VPL.2000.0003.2851-2852.

³⁵³⁶ Exhibit RC0281 ICR3838 (103), 4 October 2007, 1269 VPL.2000.0003.2855.

³⁵³⁷ Exhibit RC0281 ICR3838 (103), 5 October 2007, 1272-1274 VPL.2000.0003.2858-2860.

³⁵³⁸ Exhibit RC0281 ICR3838 (103), 6 October 2007, 1276-1277 VPL.2000.0003.2862-2863.

³⁵³⁹ Exhibit RC0281 ICR3838 (103), 8 October 2007, 1279-1280 VPL.2000.0003.2865-2866.

Gregory's plea, as he wanted to know what happened at court if possible. Mr Iddles was updated.³⁵⁴⁰

9 October 2007 – Discussion about Bringing Gobbo before the ACC

2582. On 9 October 2007, Mr Wilson returned from a period of leave and was updated on the latest information provided by Ms Gobbo to the SDU. At 8:20am he had a discussion with Mr Waddell. Mr Wilson recorded in his diary this related to the potential to bring '3838' before the ACC or a coercive hearing. Mr Wilson noted the need to discuss the matter further with Mr Overland.³⁵⁴¹
2583. That afternoon, Mr Wilson had a '1:1' with Mr Cornelius, during which he provided an update in relation to the Briars Taskforce investigation and told him of the need to further discuss '3838'.³⁵⁴²
2584. In evidence, Mr Cornelius said he had no recollection of the meeting, although said he did have a recollection of discussion at Briars Taskforce Management Committee meetings about bringing '3838' before a coercive body. He gave the following evidence in relation to the matter:

MS TITTENSOR: Do you have a recollection of discussions involving bringing 3838 before a coercive body?

MR CORNELIUS: Before the ACC, yes, I do recall that and I think there are references to that in meeting, the board meeting updates, but as to the specifics around the timing of it and who was organising it, I can't recall the details of it.

MS TITTENSOR: Now, if 3838's to be brought before any kind of coercive body, you'd presumably have to know who they are? You're going to know pretty quickly?

MR CORNELIUS: Yeah, I imagine so but I, as I say, I've got no, I've got no recollection of the details or the specifics about how that was being arranged.

MS TITTENSOR: Do you think it's likely for Mr Wilson - - - ?

MR CORNELIUS: I don't even recall whether ultimately she did appear before the ACC.

MS TITTENSOR: I'm not sure that she did either. Do you think it's likely for Mr Wilson to be having a discussion with Mr Waddell, which is to be discussed with Mr Overland, and then he's having an update on Operation Briars and discussing 3838 with you on the same day?-

MR CORNELIUS: -Yep.

³⁵⁴⁰ Exhibit RC0281 ICR3838 (103), 9 October 2007, 1281-1282 VPL.2000.0003.2867-2868.

³⁵⁴¹ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 7 [40-41] VPL.0014.0094.0001. @.0007; Exhibit RC0828 Mr Rodney Wilson diary, 9 October 2007, 149 RCMP1.0118.0001.0001 @.0149.

³⁵⁴² Exhibit RC0828 Mr Rodney Wilson diary, 9 October 2007, 150 RCMP1.0118.0001.0001 @.0150.

MS TITTENSOR: That he's - everyone's going to be in the know about who 3838 actually is?

MR CORNELIUS: That may be the case but, again, I'd make the point that these are discussions that Wilson is saying that he's going to be having with Simon Overland.

MS TITTENSOR: You're his superior officer at that stage?

MR CORNELIUS: Yes.

MS TITTENSOR: You're the chair of the Briars Task Force?

MR CORNELIUS: Yes.

MS TITTENSOR: Don't you think you're going to be involved in a discussion about bringing 3838 before a coercive hearing?

MR CORNELIUS: Yeah, well, I may well have been. But I'm saying to you I don't recall being involved in those discussions or those arrangements. I have no memory of it.

MS TITTENSOR: That's not to say it didn't happen?

MR CORNELIUS: Well, I mean all sorts of things may happen that I don't remember. I mean I'm sitting here doing my level best to try and call to mind matters which you're putting to me but I'm saying to you, I simply do not remember being involved in that or that being discussed with me.³⁵⁴³

2585. Submissions are contained in earlier chapters concerning Mr Cornelius' knowledge prior to this stage. However, it is submitted that because Mr Cornelius was Mr Wilson's direct superior and head of the Briars Taskforce, there can be little doubt that Mr Wilson discussed with Mr Cornelius the possibility of bringing '3838' before a coercive hearing. It is submitted that to have had such a discussion, Mr Cornelius would have known '3838' was Ms Gobbo.
2586. On 11 October 2007, Mr Waters attended at Ms Gobbo's chambers, and they went to the café downstairs to talk. Ms Gobbo reported the conversation to Mr Fox, who in turn reported what Mr Waters had said to Mr Iddles.³⁵⁴⁴
2587. 15 October 2007, a Briars Taskforce Management Committee meeting took place, attended by Messrs Cornelius, Ashton, and Wilson and Officer Terrasse, with Mr Overland an apology. The minutes include that there was 'discussion re update' and that the brief of evidence and a report would be provided to Mr Horgan in late October or early November 2007, and it would then go to Mr Cornelius (presumably for authorisation or otherwise). It was noted that Mr Wilson would return to ESD after October 2007 but he would

³⁵⁴³ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12318-12319 TRN.2020.01.03.01.P.

³⁵⁴⁴ Exhibit RC0281 ICR3838 (104), 11 October 2007, 1290-1291 VPL.2000.0003.2876-2877.

retain overall management of the Briars Taskforce whilst Mr Waddell handled the day to day management.³⁵⁴⁵

October – November 2007 – Gobbo Potentially Advising Waters

2588. On 29 October 2007, Ms Gobbo reported on a further meeting with Mr Waters. Amongst other matters, Mr Waters told her that:
- he had been told by Mr Peacock that Mr Iddles wanted to interview him
 - he had been told by a contact in Canberra that there were '55 lines off' at the moment, referring to the number of telephone intercepts the police were running
 - he had heard there were seven briefs of evidence which were going to the DPP for consideration, and was not sure if that meant seven charges or seven people to be charged
 - now he was to be interviewed he was thinking of making a prepared statement to read out and not answer any questions.
2589. Ms Gobbo discussed with Mr Fox concerns that Mr Waters might be getting ready to use her as legal representation. She said she believed he would only use her as a second opinion and not at court. Ms Gobbo said she would make sure she was unavailable for any court matters if he was charged. This information was disseminated to Mr Iddles.³⁵⁴⁶
2590. It is clear that Mr Iddles then relayed the information to Mr Wilson, who briefed the Briars Taskforce Management Committee that afternoon. That meeting was also attended by Messrs Overland, Cornelius and Ashton and Officer Terrasse.³⁵⁴⁷ Mr Cornelius made notes in relation to the report of the meeting which had occurred between Ms Gobbo and Mr Waters:

DW visited 3838 this morning

DW

- *To be (interviewed) by appointment*
- *Intends to give prepared (statement)*
- *Wants to show prepared (statement)*
- *Contact in (Canberra), says 55 lines off*
- *7 to be charged*

2591. Mr Cornelius was asked if he had questioned what was occurring when he was told that Mr Waters wanted to show '3838' his prepared statement prior to his being interviewed by police. He said he did not recall it being a point of interest or concern to him. Nor did he recall any reaction from Messrs Overland or Ashton, saying he had no recollection of the meeting.³⁵⁴⁸ Both

³⁵⁴⁵ Exhibit RC1753 Briars Taskforce Board of Management minutes, 1 October 2007, 25 IBAC.0010.0001.0525 @.0025.

³⁵⁴⁶ Exhibit RC0281 ICR3838 (107), 29 October 2007, 1325-1326 VPL.2000.0003.2911-2912.

³⁵⁴⁷ Exhibit RC0995 Briars Taskforce Update, 29 October 2007, 1, 2, VPL.0005.0012.0974 @.0974, .0977; Exhibit RC1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 29 October 2007, 35 VPL.0100.0058.0798 @.0832; Exhibit RC0995 Briars Taskforce Update, 29 October 2007 with handwritten notes of Assistant Commissioner Luke Cornelius, 36-37 VPL.0100.0058.0798 @.0833-.0834.

³⁵⁴⁸ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12319-12321 TRN.2020.01.23.01.

Messrs Overland and Ashton acknowledge they were aware by this time that '3838' was Ms Gobbo.

2592. Submissions as to Mr Cornelius' knowledge as to Ms Gobbo's status and role are made in previous chapters.
2593. It is submitted that in assessing Mr Overland's and Mr Cornelius' knowledge and understanding of the relevant issues, it should be borne in mind that both were legally qualified.
2594. Following this time, Ms Gobbo reported attendance upon her by Mr Waters, and the provision to her of the statement he intended to read in his interview. Ms Gobbo described a two page statement, indicating it was a 'full denial statement', and that she would provide the SDU a copy. Ms Gobbo further told the SDU that Mr Waters and others had checked their diaries, and between them they could account for the seven to eight Friday's before the murder (Mr Gregory had alleged that he had been provided the address of Mr Chartres-Abbott by Mr Waters at the Canada Hotel on a Friday in the month or two prior to the murder).³⁵⁴⁹
2595. Following this, Ms Gobbo was instructed by the SDU not to copy Mr Waters' prepared statement and that it would not be passed onto investigators. Ms Gobbo argued that Mr Waters had spoken to her as a friend only. The SDU advised that nevertheless, they did not want the document as it could be part of Mr Waters defence.³⁵⁵⁰
2596. On 7 November 2007, Mr Waters sent an email to Ms Gobbo entitled 'CONFIDENTIAL!!!!!!', containing the statement which he had proposed to read in his record of interview.³⁵⁵¹ That day, Ms Gobbo told the SDU that she considered that the statement was not detailed enough and that she had advised Mr Waters that he needed to add more detail. Ms Gobbo said she understood she was not to be involved in assisting to write the statement. This was disseminated to Mr Iddles.³⁵⁵²
2597. On 10 November 2007, Ms Gobbo reported to the SDU that Mr Iddles had been seizing diaries, which he believed was to check their movements on the Fridays prior to the murder. Mr Waters had told Ms Gobbo he believed that his phone must be intercepted, given he had been discussing having an effective alibi for his involvement in the murder.³⁵⁵³
2598. On 26 November 2007, there were further plans for Ms Gobbo to pass on information to Mr Waters [REDACTED]. The SML records that it was desired that Ms Gobbo would tell Mr Waters that investigators were aware how he got the address of Mr Chartres-Abbott and his arrest was imminent. This plan was suspended, and then re-enlivened on 6 December 2007.³⁵⁵⁴

³⁵⁴⁹ Exhibit RC0281 ICR3838 (107), 2 November 2007, 1350 VPL.2000.0003.2936.

³⁵⁵⁰ Exhibit RC0281 ICR3838 (108), 5 November 2007, 1357, 1362 VPL.2000.0003.2943, 2948.

³⁵⁵¹ Exhibit RC1267 Email chain involving David Waters, Nicola Gobbo, Shane O'Connell, Steven Smith, Ronald (Ron) Iddles, 7 November 2007-21 May 2009, and attachment to email, Statement of David Waters VPL.6073.0006.9380; VPL.6073.0006.9381.

³⁵⁵² Exhibit RC0281 ICR3838 (109), 7 November 2007, 1373 VPL.2000.0003.2959.

³⁵⁵³ Exhibit RC0281 ICR3838 (109), 10 November 2007, 1385 VPL.2000.0003.2971.

³⁵⁵⁴ Exhibit RC0284 SML3838, 26 November 2007, 128-129 VPL.2000.0001.9447 @.9574-.9575; Exhibit RC0284 SML3838, 6 December 2007, 130 VPL.2000.0001.9447 @.9576.

7 November 2007 – Monthly Source Review

2599. On 7 November 2007, Mr Sandy White completed a Monthly Source Review, which included:³⁵⁵⁵
- Ms Gobbo was assisting the Briars Taskforce in respect of its investigation against Mr Waters. Her value was noted in this respect, as well as in relation to the Petra Taskforce investigation, and intelligence relating to Karam, Higgs and the Mokbels. She was again assessed as high value
 - Ms Gobbo was assessed as high risk, noting that original risk factors remained, and were added to by her involvement with Petra and Briars investigations, and the risk of compromise brought by the OPI hearings
 - The recommendation of ongoing management by the SDU was essential.

9 November 2007 – Concern over Disclosure Issues

2600. On 9 November 2007, Mr Biggin spoke with Mr Ryan about a risk assessment in relation to Ms Gobbo and about 'possible disclosure issues'. In his statement to the Commission, Mr Biggin said he did not recall exactly what those issues were, but believed they related to the disclosure of Ms Gobbo's history of assisting Victoria Police that would have been required had Ms Gobbo become a witness.
2601. Mr Biggin's diary indicates that he then had a meeting with Mr Hardie where he was briefed on the status of all SDU's sources including Ms Gobbo, against whom he noted 'threats'. Mr Biggin then recorded having left a message for Mr Overland 're HS 383'.³⁵⁵⁶ He later recorded a conversation with Mr Overland, 're HS 3838 – A/C Ashby and Steve Linnell should be aware. Will finalise by 1700 meeting – Welfare Insp Wilson'.
2602. During 2007, a number of leaks had occurred during the Briars Taskforce to the media. An OPI investigation determined that the leaks to the media had come about through confidential information which had been provided to the Media Director of Victoria Police, Mr Linnell, who was on the 'CCP Advisory Group', had been passed on to Mr Ashby and then to Mr Mullett. A significant story had been published in the media on 14 September 2007, following which the OPI briefed Ms Nixon, and Messrs Overland and Cornelius about their investigation and the involvement of Messrs Linnell, Ashby and Mullett. In October 2007, the OPI informally interviewed Messrs Overland and Cornelius who subsequently signed affidavits.³⁵⁵⁷ In November

³⁵⁵⁵ Exhibit RC0284 SML3838, 7 November 2007, 125-126 VPL.2000.0001.9447 @.9571-.9572.

³⁵⁵⁶ Exhibit RC0577B Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 20 [98] VPL.0014.0041.0008 @.0027; Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 9 November 2007, 555 RCMP1.0075.0001.0001 @.0555.

³⁵⁵⁷ Exhibit RC0988 Affidavit of Mr Simon Overland, 1 November 2007, RCMP1.0123.0001.0001; Operation Clonk, Briars Running Sheet, 2 October 2007, 7, IBAC.0008.0001.0043 @.0007; Exhibit RC1054 Affidavit of Assistant Commissioner Luke Cornelius, 1 November 2007, 54 RCMP1.0139.0001.0001 @.0054; Exhibit RC0874 Operation Briars Chronology, prepared by Assistant Commissioner Luke Cornelius, 3 October 2007, IBAC.0008.0001.0027.

2007, the OPI were conducting public hearings in relation to the media leaks.³⁵⁵⁸

2603. Ms Gobbo had been tasked by the Briars Taskforce to leak what might otherwise be regarded as confidential material to Messrs Waters. OPI investigators were not informed of this matter or Ms Gobbo's role as a human source. It appears that Mr Biggin was raising a concern that should Messrs Linnell or Ashby be aware of her role within Briars, she may be compromised.
2604. Later that day Mr Biggin recorded a conversation with Mr Sandy White, 're HS3838 – risk issues given current possible release of info.' Mr Sandy White recorded receiving the call from Mr Biggin who told him that he had spoken with Mr Overland in relation to whether Messrs Ashby or Linnell had knowledge of Ms Gobbo's identity as a human source. Mr Overland believed neither were aware. Mr Sandy White then reported this to Mr Fox.
2605. Following this, at 4:50pm, Mr Biggin recorded attending at the Victoria Police Centre for a Corporate Committee meeting with Ms Nixon and 'all CC members' where they received an update on OPI hearings.

November 2007 – Committal of Horthy Mokbel

2606. On 21 November 2007, Mr Flynn gave evidence in the committal proceeding of Mr Horthy Mokbel. Mr Peter Smith was acting controller and recorded an update from Ms Gobbo's handler, Mr Fox, that Mr Flynn had been asked if Ms Gobbo was present when Mr Cooper 'rolled', and had said no. Mr Fox also reported that Ms Gobbo was representing Mr Gatto in a coercive examination against handler advice.³⁵⁵⁹
2607. Ms Gobbo's developing association and representation of Mr Gatto is discussed further in Chapter 16.
2608. On 22 November 2007, Mr Fox reported to Mr Peter Smith that Mr Cooper had claimed privilege in relation to questions about having obtained legal advice upon his arrest and that the Magistrate had prevented further questioning, thinking it to be irrelevant.³⁵⁶⁰

10 December 2007 – Briars Taskforce Update

2609. On 10 December 2007, there was a meeting of the Briars Taskforce Management Committee attended by Messrs Overland, Cornelius and Ashton, Wilson and Officer Terrasse.³⁵⁶¹ The written update noted that legal advisors for Mr Goussis, who was facing trial for the murder of Lewis Moran where Mr Gregory was to be a witness against him, had issued a subpoena for documents related to Mr Gregory and the investigation into the murder of

³⁵⁵⁸ Exhibit RC1824 Opening statement by Examiner, Office of Police Integrity hearing, 7 November 2007, VPL.6018.0011.3865.

³⁵⁵⁹ Exhibit RC0284 SML3838, 21 November 2007, 126 VPL.2000.0001.9447 @.9572.

³⁵⁶⁰ Exhibit RC0284 SML3838, 22 November 2007, 126-127 VPL.2000.0001.9447 @.9572-.9573.

³⁵⁶¹ Exhibit RC1761 Briars Taskforce Update, 10 December 2007 with handwritten notes of Mr Simon Overland, 29, VPL.0100.0058.0798 @.0826; Exhibit 1775 Assistant Commissioner Luke Cornelius electronic calendar entry, Weekly Taskforce Meeting, 10 December 2007, 28 VPL.0100.0058.0798 @.0825; Exhibits RC1762 Briars Taskforce Update with handwritten notes of Assistant Commissioner Luke Cornelius, 10 December 2007, 29-30 VPL.0100.0058.0798 @.0826-.0827.

Chartres-Abbott and that Mr Dennis of counsel had been engaged to represent the Chief Commissioner.

2610. The update also reported that advice had been received by Mr Horgan, who had expressed some concerns about the timing of a decision about charging suspects, indicating it may have an impact on the pending trial of Mr Goussis. It appears this was a concern as it would be difficult to claim public interest immunity on the basis of an ongoing investigation if charges were laid. At this point Mr Cornelius noted:

- Note credit issues re Gregory
- re Lewis Moran murder

2611. The update indicated that investigators were to interview persons known to frequent the Canada Hotel in an effort to corroborate Mr Gregory.

2612. The following month, Messrs Iddles and Waddell interviewed Ms Gobbo.

CHAPTER 16 – 2007 TO 2008 – SOME CASES WITH CONFLICT AND DISCLOSURE ISSUES

Part 1 – Representation of Bickley

Background

2613. As referred to in Chapter 10 and in Mr Bickley's case study in Volume 3 of these submissions, Ms Gobbo was recruited by the SDU arising from her representation of Mr Bickley following his arrest in August 2005. He was charged and bailed in relation to those matters.
2614. Ms Gobbo provided information to the police about Mr Bickley and others following her registration. This led to the gathering of further evidence against Mr Bickley and his arrest for a second time. Ms Gobbo advised him upon his arrest and he agreed to co-operate with the police and provide evidence against other targets. Mr Bickley had been released without charge after this second arrest.
2615. In 2007, court hearings were approaching in Mr Bickley's first proceeding. Mr Bickley had not yet entered a plea of guilty and was concerned as to the likely sentence he would receive.

Bickley's Upcoming Court Proceeding

2616. On 4 January 2007, Mr Rowe rang Ms Gobbo to discuss the committal of Bickley, understanding that she was 'informally advising' him at the time.³⁵⁶²
2617. On 9 January 2007, Mr O'Brien met with Mr Bickley and had a discussion as to his court and 'charges situation'.³⁵⁶³
2618. On 17 January 2007, Mr O'Brien was involved in arrangements for Mr Bickley to be advised by solicitor, Margaret McCauley.³⁵⁶⁴
2619. That night, Ms Gobbo met with Messrs Peter Smith and Green. It was noted that Ms Gobbo had lost 32kg in a short period of time, and that Mr Bickley might prove a headache for Ms Gobbo when his matter comes to court, as he was another person she had represented who had assisted police, and he 'may not know to keep his mouth shut'.³⁵⁶⁵ At the time Ms Gobbo also requested that the SDU ask Mr O'Brien whether Mr Bickley's assistance was enough to keep him out of gaol.³⁵⁶⁶

³⁵⁶² Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 14 [102], VPL.0014.0035.0028 @.0041; Exhibit RC0281 ICR3838 (060), 7 January 2007, 597, VPL.2000.0003.2183; Exhibit RC1800 Audio summary 33, meeting between Ms Nicola Gobbo, Mr Peter Smith and Mr Green, 17 January 2007, 2:36:26, 5, VPL.2000.0003.0200@.0004.

³⁵⁶³ Exhibit RC0933 Mr James (Jim) O'Brien diary, 9 January 2007, 256

³⁵⁶⁴ Exhibit RC0933 Mr James (Jim) O'Brien diary, 17 January 2007, 26

³⁵⁶⁵ Exhibit RC0284 SML3838, 17 January 2007, 78-79, VPL.2000.0001.9447 @.9524-.9525.

³⁵⁶⁶ Exhibit RC0281 ICR3838 (062), 17 January 2007, 607, VPL.2000.0003.2193.

2620. On 18 January 2007, Mr Bickley visited Ms McCauley and the following day she requested his brief of evidence from Mr O'Brien.³⁵⁶⁷ On 22 January 2007, Mr O'Brien had a conversation with Ms McCauley in relation to the [REDACTED], and as to the likely sentencing outcome.³⁵⁶⁸
2621. On 23 January 2007, Ms Gobbo reported to the SDU that Mr Bickley was angry with Mr O'Brien about the solicitor recommended to him. Ms Gobbo was also angry that she had not been told about this, stating that it undermined her position. Ms Gobbo said she had told Mr Bickley that she did not believe he had assisted enough to avoid gaol at this stage, and that he should not sign statements until his plea had been worked out.³⁵⁶⁹ The following day she was again expressing concerns that she would be compromised by Mr Bickley telling people she had supported his assistance to the police, and expressing bitterness about [REDACTED].³⁵⁷⁰
2622. Ms Gobbo continued to involve herself in Mr Bickley's case, including discussing the possibility of representing Mr Bickley at his committal³⁵⁷¹ and speaking with his solicitor, Ms McCauley.³⁵⁷²
2623. On 31 January 2007, Ms Gobbo reported to the SDU on Bickley's anger after having been told by Ms McCauley that the police believed he should receive a custodial sentence. Mr Bickley told Ms Gobbo that he wanted her to represent him, expressing no faith in Ms McCauley. Ms Gobbo felt conflicted, but apparently not in any legal, ethical or moral sense. On the one hand she did not want to turn her back on Mr Bickley, on the other she did not want to upset the Purana Taskforce.³⁵⁷³ In a further conversation that day, Ms Gobbo spoke with the SDU about whether she should represent Mr Bickley, who had reminded her that 'but for her he would not be talking'. Ms Gobbo was advised not to represent him. She later advised that she had spoken to Ms McCauley, and that Mr Bickley would reserve his plea at his committal hearing the following week, and no evidence would be called.³⁵⁷⁴
2624. Prior to his committal on 7 February 2007, Ms Gobbo advised Mr Bickley, who was appearing for himself, as to what he needed to do.³⁵⁷⁵ She later reported it had all gone smoothly.³⁵⁷⁶ Mr Rowe had been told that Mr Bickley would represent himself at the hearing, with informal assistance from Ms Gobbo. He told the Commission that he understood efforts were being made to discourage that course, but that whilst Ms Gobbo was sometimes dissuaded from representing people, she 'would come back into things'. Mr Rowe said that he was not sure he considered that she was compromising court proceedings by continuing to act in the way she did, but 'we just were

³⁵⁶⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 19 January 2007, 262

³⁵⁶⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 22 January 2007, 264

³⁵⁶⁹ Exhibit RC0281 ICR3838 (063), 23 January 2007, 611, VPL.2000.0003.2197.

³⁵⁷⁰ Exhibit RC0284 SML3838, 24 January 2007, 81-82, VPL.0005.0099.0001 @.0081-.0082.

³⁵⁷¹ Exhibit RC0281 ICR3838 (063), 24 January 2007, 613, VPL.2000.0003.2199.

³⁵⁷² Exhibit RC0281 ICR3838 (064), 29 January 2007, 618, VPL.2000.0003.2204.

³⁵⁷³ Exhibit RC0281 ICR3838 (064), 31 January 2007, 621, VPL.2000.0003.2207.

³⁵⁷⁴ Exhibit RC0281 ICR3838 (064), 31 January 2007, 621-622, VPL.2000.0003.2207-.2208.

³⁵⁷⁵ Exhibit RC0281 ICR3838 (065), 6 February 2007, 628, VPL.2000.0003.2214.

³⁵⁷⁶ Exhibit RC0281 ICR3838 (065), 7 February 2007, 629, VPL.2000.0003.2215.

mindful of the conflict, and you know, we were trying to limit that, reduce it, stop it.³⁵⁷⁷

2625. In late February 2007, an OPP solicitor with conduct of Mr Bickley's case, Tamara Heffernan, emailed Mr Rowe, copying in Mr Flynn, in relation to child custody proceedings between Mr Bickley and his former partner. Ms Heffernan had been speaking with the solicitor of Mr Bickley's former partner and had been told that Mr Bickley had nominated Ms Gobbo to supervise his contact with his child. Ms Heffernan commented that this was very unusual, and that if it occurred Ms Gobbo would end up as a witness in Family Court proceedings.³⁵⁷⁸ About a week later Ms Gobbo told the SDU that she had agreed to act as the 'independent person' during Mr Bickley's access visits with his child.³⁵⁷⁹ On the same day, and at various times thereafter, Ms Gobbo denigrated Mr Bickley, telling the SDU that he was 'pulling the wool over the eyes of the police', [REDACTED] and providing them with misleading evidence.³⁵⁸⁰

2626. On 14 March 2007, Messrs Rowe and Flynn attended a meeting at the OPP with the DPP, Mr Paul Coghlan, and Ms Heffernan in relation to Mr Bickley's case. Ms Heffernan drafted a memorandum to Mr Coghlan in advance of the meeting, advising that Purana Taskforce members had requested the conference for advice in relation to the presentment, sentencing instructions and a 'conflict of interest'.³⁵⁸¹ The memorandum provided an overview of Mr Bickley's situation, including his arrest in June 2006, and his subsequent co-operation. In respect of the conflict matter, Ms Heffernan stated:

Representation & possible conflict of interest:

A Ms Margaret McAuley is the solicitor acting.

Apparently Nicola Gobbo is briefed.

Neither have contacted me.

I believe that Nicola could have a conflict of interest and may need to withdraw.

She of course represented Tony Mokbel in his trafficking trial in 2006, during which he fled. Given that [REDACTED] Mokbel in my view Nicola may face a conflict of interest.

Advice is sought as to your view.

2627. Following the meeting Ms Heffernan emailed a file note of the conference to Messrs Flynn and Rowe, which amongst other matters, indicated that:

in relation to the presentment, Mr Coghlan's view was that if Mr Bickley co-operated:

³⁵⁷⁷ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9254 [26] - [1], RCMPI_13Nov19_provisional.

³⁵⁷⁸ Exhibit RC0736 Email from Tamara Heffernan to Paul Rowe copying Dale Flynn, 28 February 2007, VPL.6030.0200.3605.

³⁵⁷⁹ Exhibit RC0281 ICR3838 (069), 5 March 2007, 672, VPL.2000.0003.2258.

³⁵⁸⁰ Eg Exhibit RC0281 ICR3838 (069), 5 March 2007, 671, VPL.2000.0003.2257; Exhibit RC0281 ICR3838 (078), 8 May 2007, 830, VPL.2000.0003.2416.

³⁵⁸¹ Exhibit RC0737 Office of Public Prosecutions memorandum from Tamara Heffernan to Paul Coghlan, 13 March 2007, COR.1000.0001.0159.

- the Operation Quills presentment would allege a more limited date range of involvement
- the Operation Posse conspiracy charge would not proceed
- he would receive a discount for undertakings given in relation to statements made by him

in relation to sentence, Mr Coghlan indicated that:

- he would not agree to recommend a wholly suspended sentence, and could not be sentenced to less [REDACTED]
[REDACTED] given his role
- without co-operation, in relation to the Operation Quills charges alone, Mr Bickley would be looking at 10 years imprisonment

in relation to the conflict of interest, Mr Coghlan indicated that:

- in his view Ms Gobbo plainly had a conflict of interest due to her representation of Mr Tony Mokbel
- it was noted further that she had acted in the Milad Mokbel matter for Mr Cooper
- there was discussion about a statement made by Mr Bickley as to Solicitor 2's unsolicited professional visit to him following his first arrest. Solicitor 2 told him she had come on behalf of a friend, holding up a piece of paper with 'Tony Mokbel' written on it and telling him not to say anything. Mr Coghlan suggested further inquiries by Mr Rowe, indicating he took such matters very seriously and that there might be consequences for Solicitor 2's practicing certificate. There was reference to VCAT proceedings in relation to Solicitor 2's practicing certificate taking place in April 2007.

2628. There were further queries subsequent to the conference dealt with in the file note, including the way in which the non-prosecution of the Operation Posse conspiracy charge should occur. Mr Coghlan advised that Mr Bickley ought to be told:

- although the conspiracy was 'forgiven' at that stage, it could be triggered if he did not live up to his undertakings to give evidence
- if that occurred, he would then be sentenced on the original Operation Quills trafficking charge as well as facing the Operation Posse conspiracy charge, both relating to large commercial quantities
- given the Operation Posse conspiracy offence was committed on bail, there was a presumption that any sentence would be served cumulatively on the Operation Quills trafficking charge

- he would fall to be sentenced as a serious drug offender which meant the court should regard protection of the community as paramount and also brought with it a presumption of cumulation.³⁵⁸²

2629. It is submitted that it is of concern that two experienced Purana Taskforce investigators sat in a conference with the DPP where there was a discussion about:

- Ms Gobbo having a conflict of interest based simply upon her prior representation of Mr Tony Mokbel, not to mention her representation of Cooper
- the seriousness with which Mr Coghlan took allegations relating to the interference with the criminal justice system by a lawyer
- the plan to charge Mr Bickley with the Operation Posse conspiracy should he not continue to co-operate;

in the knowledge that:

- Ms Gobbo's conflicts of interest were on a much grander scale than might ever have been contemplated by Mr Coghlan
- Ms Gobbo was the human source largely responsible for the arrests of both Messrs Cooper and Bickley
- the co-operation of both Messrs Cooper and Bickley had been obtained by their complicity in a ruse perpetrated upon both Messrs Cooper and Bickley that they had received independent legal advice upon their arrests.

2630. On 19 March 2007, Mr Rowe met with other police members in relation to Mr Bickley who was refusing to co-operate after having been told he would likely receive a custodial sentence. The following day, Mr Rowe spoke with Ms Gobbo's handler, Mr Anderson, and asked to meet with Ms Gobbo. Mr Anderson indicated he would not arrange a meeting but would wait for Ms Gobbo to contact him in relation to Mr Bickley. Mr Rowe informed Mr Flynn, presumably having discussed that approach with him.³⁵⁸³

2631. It seems these officers did this in the face of advice from the DPP less than a week earlier, that Ms Gobbo was not to be involved in the case.

2632. On 28 March 2007, Ms Gobbo reported that Mr Phillip Dunn QC was representing Mr Bickley. She expressed concern that Mr Bickley would be open with his counsel about [REDACTED] her knowledge of it.³⁵⁸⁴ On 2 April 2007, Ms Gobbo reported having met with Mr Bickley following a conference he'd had with Mr Dunn. Ms Gobbo told her handler, Mr Anderson, what she learned had occurred during his conference.³⁵⁸⁵ A few days later during another conversation about Mr Bickley, it was suggested by Mr Anderson that Ms Gobbo should tell Mr Bickley to limit

³⁵⁸² Exhibit RC0738 Email from Tamara Heffernan to Paul Rowe and Dale Flynn, 15 March 2007, VPL.6030.0200.3202; RC0738 Attachment to email from Tamara Heffernan to Paul Rowe and Dale Flynn, 15 March 2007, VPL.6030.0200.3203.

³⁵⁸³ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 15 [109], VPL.0014.0035.0028 @.0042.

³⁵⁸⁴ Exhibit RC0281 ICR3838 (072), 28 March 2007, 739-740, VPL.2000.0003.2325-.2326; Exhibit RC0284 SML3838, 28 March 2007, 103, VPL.2000.0001.9447 @.9549.

³⁵⁸⁵ Exhibit RC0281 ICR3838 (073), 2 April 2007, 761, VPL.2000.0003.2347.

what he told Mr Dunn about her and her involvement. Ms Gobbo thought it would be too late.³⁵⁸⁶

2633. On 4 May 2007, Ms Gobbo reported that Mr Bickley had attended a conference with Mr Dunn, who was in the same set of chambers. She had been asked by Mr Dunn for a statement supporting Mr Bickley in relation to events following his arrest. She had declined, but there had been suggestion of a subpoena being issued to compel evidence from her.³⁵⁸⁷ Ms Gobbo later advised she had spoken to directly to Mr Flynn in relation to the possibility of a subpoena.³⁵⁸⁸
2634. On 5 May 2007, Ms Gobbo sent an email to Mr Rowe in relation to the case. She attached notes which she proposed to send to Mr Dunn confirming that Mr Rowe would not be in a position to dispute such matters should they be put on a plea, which she hoped would avoid her being subpoenaed. The attachment outlined events following Mr Bickley's arrest and remand in August 2005 but did not mention anything of Ms Gobbo's involvement with the police at that time. Mr Rowe subsequently responded agreeing with the document and suggesting the deletion of a portion which related to a conversation between Ms Gobbo and Mr Bickley which might have the effect of encouraging the subpoena. Ms Gobbo responded that she would 'play with the document and send it to [Mr Dunn]'.³⁵⁸⁹
2635. On 6 May 2007, Ms Gobbo reported to Mr Anderson that she had had a detailed conversation with Mr Rowe in relation to the matter. It had been determined that Mr Rowe could give all the evidence required and would concede the points that Mr Dunn wished to raise.³⁵⁹⁰
2636. On 7 May 2007, Ms Gobbo reported to Mr Anderson that Mr Dunn, Ms McCauley and Mr Bickley had all come to her chambers. Mr Dunn had received an email from Mr Rowe detailing the sequence of events, but still wanted Ms Gobbo to give evidence. Ms Gobbo told him that Mr Bickley could give the evidence and that Mr Rowe would concede everything required.³⁵⁹¹
2637. On 8 May 2007, Ms Gobbo reported to the SDU that she had yet to receive any summons, then later that she had called Mr Dunn and told him that she was aware of matters which Mr Dunn was not that would be unhelpful to Mr Bickley upon his plea, and that she would not perjure herself should she be called to give evidence. Later that night Ms Gobbo reported speaking with Mr Flynn about the plea of Mr Bickley and having attended a conference with Messrs Dunn and Bickley. She reported that Mr Bickley had signed his statements and commented critically in relation to Mr Bickley's reference to Mr Karam in one of his statements.³⁵⁹²

³⁵⁸⁶ Exhibit RC0281 ICR3838 (073), 5 April 2007, 768, VPL.2000.0003.2354.

³⁵⁸⁷ Exhibit RC0281 ICR3838 (077), 4 May 2007, 823-824, VPL.2000.0003.2409-.2410.

³⁵⁸⁸ Exhibit RC0281 ICR3838 (077), 4 May 2007, 824, VPL.2000.0003.2410.

³⁵⁸⁹ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 15[111], VPL.0014.0035.0028 @.0042; Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9270 [28] – 9272 [8], RCMP1_13Nov19_provisional; Exhibit RC0740 Email from Nicola Gobbo to Paul Rowe, 5 May 2007, VPL.6030.0200.5410 and VPL.6030.0200.5411; Exhibit RC0740 Email exchange between Paul Rowe to Nicola Gobbo, 7 May 2007, VPL.6030.0200.5235.

³⁵⁹⁰ Exhibit RC0281 ICR3838 (078), 6 May 2007, 825, VPL.2000.0003.2411.

³⁵⁹¹ Exhibit RC0281 ICR3838 (078), 7 May 2007, 827, VPL.2000.0003.2413.

³⁵⁹² Exhibit RC0281 ICR3838 (078), 8 May 2007, 829-830, VPL.2000.0003.2415-.2416.

2638. On 9 May 2007, Mr Bickley's plea took place. Mr Rowe gave evidence on the plea. Mr Bickley received a wholly suspended sentence.³⁵⁹³
2639. On 5 June 2007, Mr Tony Mokbel was arrested in Greece. Following this time Ms Gobbo reported that Mr Bickley, who had made statements against Mr Tony Mokbel, had concerns for his life.³⁵⁹⁴
2640. On █ November 2007, Ms Gobbo reported to her handler, Mr Fox, having met Mr Bickley outside of court and having had a 'general talk'. Ms Gobbo indicated that she could not stand him but had arranged to meet him the following weekend. This was verbally disseminated to Mr Flynn.³⁵⁹⁵
2641. Following their conversation, Mr Bickley reported to Mr Rowe that Ms Gobbo told him that there was a contract out on his life. Mr Bickley was concerned he had not been told this by investigators. Mr Rowe indicated that he was not aware of any such matter, and he would make enquiries. Mr Rowe then spoke with Mr Flynn and asked that he make enquiries with the SDU.³⁵⁹⁶
2642. Mr Fox then spoke with Ms Gobbo about her conversation with Mr Bickley. Ms Gobbo said that he had asked her if Mr Tony Mokbel knew he had assisted police. Ms Gobbo said he must know by now as statements had been served, meaning the brief against Mr Radi. Ms Gobbo denied having told Mr Bickley that his life was in danger. Ms Gobbo could not think why Mr Bickley walked away from their meeting thinking that his life was in danger. Mr Fox then conveyed this information to Messrs Flynn and Ryan.³⁵⁹⁷ Mr Flynn, after having spoken to the SDU, reported to Mr Rowe that there had been a misunderstanding on the part of Mr Bickley. Mr Rowe then spoke with Mr Bickley.³⁵⁹⁸
2643. In the days thereafter, Ms Gobbo reported her suspicions that Mr Bickley was attempting to get his property unrestrained so he could flee and avoid giving evidence against Mr Tony Mokbel. She further advised that the best way to keep Mr Bickley in the jurisdiction was to keep his property restrained.³⁵⁹⁹
2644. In January 2008, the committal of Mr Radi was due to take place. Ms Gobbo became concerned that her role as legal advisor to Mr Bickley might be revealed during the committal. On 19 January 2008, she told Mr Peter Smith that someone should tell Mr Bickley that he did not have to mention

³⁵⁹³ Exhibit RC0281 ICR3838 (078), 9 May 2007, 831-832, VPL.2000.0003.2417-.2418; Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 15 [112], VPL.0014.0035.0028 @.0042; Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9272 [10] – [31], RCMP1_13Nov19_provisional.

³⁵⁹⁴ Exhibit RC0281 ICR3838 (082), 10 June 2007, 886, VPL.2000.0003.2472.

³⁵⁹⁵ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 15 [113], VPL.0014.0035.0028 @.0042; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 1 November 2007, 123, RCMP1.0065.0001.0001 @.0123.

³⁵⁹⁶ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, [113], VPL.0014.0035.0028 @.0042; Exhibit RC1381 Detective Sergeant Paul Rowe diary, 1 November 2007, 123, RCMP1.0065.0001.0001 @.0123.

³⁵⁹⁹ Exhibit RC0281 ICR3838 (107), 2 November 2007, 1348-1350, VPL.2000.0003.2934-.2936; Exhibit RC0291 ICR3838 (108), 5 November 2007, 1364, VPL.2000.0003.2950.

her name should he be asked questions which might elicit such a response.³⁶⁰⁰

2645. On 20 January 2008, Ms Gobbo was enquiring of her handler, Mr Peter Smith, as to whether subpoenas had been issued for Mr Bickley's record of interview as he had referred to having spoken to her. Mr Peter Smith rang Mr Rowe in relation to Ms Gobbo's concerns. According to Mr Peter Smith's note, Mr Rowe indicated he was well aware of 'Bickley issues', he had already spoken to Mr Bickley in relation to 'PII' and he and would do so again. Mr Rowe said there had been no subpoena for the record of interview.³⁶⁰¹
2646. Mr Rowe said in evidence to the Commission that he wouldn't have spoken to Mr Bickley about PII. It was suggested that perhaps Mr Peter Smith had meant to write LPP. Mr Rowe said he had never spoken to Mr Bickley about not mentioning Ms Gobbo. He indicated that Mr Bickley may get asked what Mr Rowe had told him, and that if he had told Mr Bickley he could not mention Ms Gobbo in her legal capacity, questions would have been asked why.³⁶⁰²
2647. On 21 January 2008, Ms Gobbo requested an update from Mr Peter Smith in relation to the committal. Mr Peter Smith rang Mr Rowe for an update in relation to the committal proceeding. Mr Rowe told Mr Peter Smith that the defence had tried to ascertain from whom Mr Bickley had obtained legal advice at various relevant times including following his arrest in June 2006 whereupon he replied 'Theo Magazis'. He was then asked about his representation in 2005, and in relation to his plea and he replied 'Ms McCauley'. He was then asked who he had spoken to for legal advice during a break in the hearing and he replied 'Mr Dunn'.³⁶⁰³
2648. It was put to Mr Rowe that he knew that this was not the entire truth. Mr Rowe responded that he would not say that, he was simply reiterating Mr Bickley's answers. It was pointed out to Mr Rowe that he knew very well that when Mr Bickley was arrested in 2006, he received legal advice from Ms Gobbo. Mr Rowe responded that he was not sure he turned his mind to it at that point in time. It was suggested to Mr Rowe that this did not sit well, given that he was speaking with the SDU for the very reason they were concerned that Ms Gobbo's name would be raised in the committal. Mr Rowe said he was simply relaying answers to questions. Mr Rowe denied that he knew that Mr Bickley was not telling the whole truth, saying that he could not get inside Mr Bickley's head. He said it was not a lie if Mr Bickley thought he got legal advice from Theo Magazis in June 2006, as Mr Magazis had become his solicitor following his first arrest.³⁶⁰⁴
2649. On 24 January 2008, Mr Rowe was asked by the SDU for another report on the committal. Mr Rowe reported that he had been asked questions in relation to who had provided legal advice to Mr Bickley. He said he

³⁶⁰⁰ Exhibit RC0281 ICR3838 (119), 19 January 2008, 1580, VPL.2000.0003.3166.

³⁶⁰¹ Exhibit RC0281 ICR3838 (119), 20 January 2008, 1582, VPL.2000.0003.3168.

³⁶⁰² Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9277 [7] – [46], RCMPI_13Nov19_provisional.

³⁶⁰³ Exhibit RC0281 ICR3838 (119), 21 January 2008, 1583, VPL.2000.0003.3169.

³⁶⁰⁴ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9278 [10] – 9279 [41], RCMPI_13Nov19_provisional.

answered that a number of solicitors had been involved, following which the defence did not probe further.³⁶⁰⁵

2650. Mr Rowe was asked why he did not use the term barristers and responded that he used the term solicitor as a generic term. He agreed that he knew at the time that the defence lawyers would be particularly interested to know about Ms Gobbo's involvement, especially as a police agent. When it was put that he had not told the defence lawyers of that matter, Mr Rowe responded that he would never tell them that. He agreed that neither did he inform the court or claim public interest immunity.³⁶⁰⁶ Mr Rowe said he was not aware of any legal advice having been taken about withholding Ms Gobbo's identity as a legal advisor.³⁶⁰⁷
2651. Following this time Ms Gobbo continued to have contact with Mr Bickley.³⁶⁰⁸ In May 2008, she was aware that Mr Bickley was due to give evidence and again told the SDU that she did not 'want another person who has rolled admitting they have spoken to [her] first'. She was told that Purana were fully aware of this.³⁶⁰⁹ She raised these concerns again in relation to Messrs Bickley, Thomas and Cooper on 17 June 2008, saying that she was dependent on her reputation for work, and was concerned that what was being said about her in the gaol would affect her ability to earn an income.³⁶¹⁰

Part 2 – Representation of Milad Mokbel & related Matters

Background

2652. In 2006, Mr Milad Mokbel, and a number of other persons, were charged with various drug offences as a result of Operation Posse. Mr Rowe was the informant for Mr Milad Mokbel. Detective Sergeant Jason Kelly was the informant for co-accused Messrs Tony Bayeh [REDACTED], and Detective Senior Constable Tim Johns was the informant for co-accused Mr Keene.³⁶¹¹
2653. By early 2007, members of the SDU and Purana were contemplating upcoming court proceedings which involved Mr Cooper as a prosecution witness and concerns that within the course of those proceedings Ms Gobbo's role either as having advised Mr Cooper on the night of his arrest, or as a human source, would be discovered. In relation to the former, as had been the case with respect to Mr Carl Williams and his associates when she had represented Mr McGrath, Ms Gobbo maintained that the Mokbels would regard it as a betrayal if they found out she knew of Mr Cooper's arrest and had not warned them. It is submitted that the evidence demonstrates that in both cases, the police determined to conceal the extent of her representation, including from the courts, which allowed her to remain

³⁶⁰⁵ Exhibit RC0281 ICR2958 (001), 24 January 2008, 2, VPL.2000.0003.0742.

³⁶⁰⁶ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9279 - 9280 [22], RCMPI_13Nov19_provisional.

³⁶⁰⁷ Transcript of Detective Sergeant Paul Rowe, 13 November 2019, 9281 [1] – [3], RCMPI_13Nov19_provisional.

³⁶⁰⁸ Exhibit RC0281 ICR2958 (006), 26 February 2008, 65, VPL.2000.0003.0805.

³⁶⁰⁹ Exhibit RC0281 ICR2958 (021), 28 May 2008, 364, VPL.2000.0003.1104.

³⁶¹⁰ Exhibit RC0281 ICR2958 (024), 17 June 2008, 456, VPL.2000.0003.1196.

trusted, inform on and provide advice to those against whom Messrs McGrath and Cooper were providing evidence.

2654. Particular concerns arose in relation to the case of Mr Milad Mokbel which is reflected in discussions between the members of the SDU and the Purana Taskforce, and separately between members of the SDU and Ms Gobbo. This included consideration of how to avoid having to disclose material relating to Ms Gobbo's role. It was appreciated that one way this might be achieved was if Mr Milad Mokbel pleaded guilty. To this end Ms Gobbo, acting as Mr Milad Mokbel's legal representative, conducted negotiations with members of the Purana Taskforce in order to attempt to resolve the matter. The SDU were involved as an intermediary, including telling Ms Gobbo the Purana Taskforce requirements for resolution. During this time Ms Gobbo continued to inform the SDU as to matters relevant to Mr Milad Mokbel, including in relation to advice provided to him by her.
2655. Part of Mr Milad Mokbel's incentive to resolve his matter related to his concerns over the impending imprisonment of his wife, Mrs Renate Mokbel. Mrs Renate Mokbel had provided the surety for Mr Tony Mokbel when he was on bail and when Mr Tony Mokbel absconded in March 2006, it was ordered that Mrs Renate Mokbel pay the sum of \$1m, that in default of payment her property be seized and sold, and that in default of seizure and sale, in whole or in part, that she be imprisoned for a period of two years.³⁶¹² In 2006, Mrs Renate Mokbel brought an application to vary or rescind the surety order which was dismissed after a hearing.³⁶¹³ Ms Gobbo provided legal representation for Mrs Renate Mokbel during 2006 and into 2007 in relation to these matters.³⁶¹⁴ Ms Gobbo also provided information to police concerning Mrs Renate Mokbel during this time.³⁶¹⁵
2656. On [REDACTED] February 2007, Ms Gobbo reported to the SDU on a meeting she had had with Mrs Renate Mokbel the night before. Ms Gobbo had advised her that there was a real possibility of her going to gaol in the relation to the non-payment of the surety of Mr Tony Mokbel. Mrs Renate Mokbel had apparently expressed dissatisfaction with Solicitor 2 and wanted Ms Gobbo to resolve her legal issues. [REDACTED]
[REDACTED]
[REDACTED].³⁶¹⁶
2657. On [REDACTED] February 2007, Mrs Renate Mokbel's brief was delivered to Ms Gobbo's chambers for her consideration.³⁶¹⁷ On 27 February 2007, Ms Gobbo told handlers that Mrs Renate Mokbel said to her she would not do anything without first consulting Ms Gobbo.³⁶¹⁸
2658. On 28 February 2007, Mrs Renate Mokbel was arrested and interviewed in relation to allegations of perjury concerning evidence she had given during

³⁶¹² *Renate Mokbel v DPP (Vic) and DPP (C'th)* [2006] VSC 487; see Case Study of Renate Mokbel in Volume 3.

³⁶¹³ Exhibit RC1856 Prosecution opening in *The Queen v Renate Lisa Mokbel*, 12 [36], COR.1016.0001.0026 @.0012.

³⁶¹⁴ See Case Review of Renate Mokbel in Volume 3.

³⁶¹⁵ See Case Review of Renate Mokbel in Volume 3.

[REDACTED]
[REDACTED]
[REDACTED]
³⁶¹⁸ Exhibit RC0281, Informer Contact Report ICR 068, Handler Anderson, Controller Sandy White, 27 February 2007, 11:01, tendered 30 July 2019, 3. VPL.2000.0003.2244, VPL.2000.0003.2246.

the application in 2006. She was released on bail.³⁶¹⁹ Ms Gobbo reported having been asked to conduct Mrs Renate Mokbel's bail application, but declining as she was in Queensland.³⁶²⁰ She later told handlers that Mr O'Brien had spoken with Mrs Renate Mokbel about [REDACTED] and that [REDACTED].³⁶²¹ On 1 March 2007 Ms Gobbo again discussed the case with the SDU.³⁶²²

Milad Mokbel's Upcoming Court Proceedings

2659. On [REDACTED] March 2007, Mr Sandy White completed a 'Monthly Source Review' in relation to Ms Gobbo. The review indicated, amongst other matters, that:³⁶²³

- Ms Gobbo continued to provide useful intelligence and remained close to targets of interest
- Ms Gobbo maintained her relationship with these targets in the belief she would be more likely to learn of any problems relevant to her
- Ms Gobbo was frustrated as police were not tasking her with collecting intelligence
- the upcoming committal of Milad Mokbel would raise Ms Gobbo's risk level in that discovery processes might lead to suspicion by targets that Ms Gobbo assisted police in the recruitment of Cooper
- continued management by the SDU was essential
- Ms Gobbo would be advised that the SDU would focus on ensuring that court discovery issues in relation to Milad Mokbel's committal were managed to ensure her protection
- a meeting between Messrs Sandy White, Anderson and Ms Gobbo would occur that evening to discuss the issue.

2660. On 6 March 2007, a meeting took place between Messrs Sandy White, Anderson and Richards of the SDU, and Messrs O'Brien, Flynn, Kelly, Hayes, Robertson and Ms Hantsis of the Purana Taskforce. The meeting included discussion about Ms Gobbo, who had been approached by Mr Milad Mokbel, to assist in negotiating a plea. It was apparent that Mr Milad Mokbel had some motivation in relation to resolving his matters as his wife's imprisonment was imminent.³⁶²⁴

2661. Ms Gobbo's handler, Mr Anderson, was given information to give to Ms Gobbo in relation to Purana's requirements for any deal; Mr Milad Mokbel was to [REDACTED]

³⁶¹⁹ Exhibit RC1856 Prosecution opening in *The Queen v Renate Lisa Mokbel*, 12 [36]-[37], COR.1016.0001.0026 @.0012-.0013.

³⁶²² Exhibit RC0281 ICR3838 (068), 1 March 2007, 665, VPL.2000.0003.2251.

██████████ he would be facing trafficking charges which would span a period of ten years or more.³⁶²⁵

2662. Mr O'Brien agreed in his evidence to the Commission that Ms Gobbo would have a serious conflict of interest in any representation of Mr Milad Mokbel. He supposed there would have been concerns about her role being revealed in court proceedings related to Mr Milad Mokbel. He said he did not tell the SDU that she should not represent him as they would have been well aware. He could not recall ever having any discussion with anyone at the SDU about her representation of Mr Milad Mokbel.³⁶²⁶
2663. When Mr O'Brien was taken to material relating to the meeting on 6 March 2007, he agreed that it was something that would have been appreciated by the SDU and the Purana Taskforce as a significant conflict. When it was put that nevertheless the SDU and the Purana Taskforce had discussions accepting that Ms Gobbo would involve herself in the representation of Mr Milad Mokbel, he responded 'There may have been a discussion but I knew Milad Mokbel would never plead'. When it was suggested that the SDU and the Purana Taskforce had a plan for the SDU to tell Ms Gobbo what needed to occur if Mr Milad Mokbel was to resolve his matters with the Purana Taskforce, he said 'Whether it's a plan or willingness by her to pass on information', and 'As I say these are not my notes, I didn't have any direct plan. I was receiving information.'³⁶²⁷
2664. Mr Flynn agreed that Ms Gobbo involved herself in attempts to negotiate a plea on behalf of Mr Milad Mokbel, and that she had no business involving herself in the representation of Mr Milad Mokbel as she was hopelessly conflicted.³⁶²⁸ He agreed that there was a gross conflict in her having been a police informer secretly assisting and pushing Mr Cooper to 'roll' and assist police. He agreed that Mr Milad Mokbel was one of the main targets of the operation.³⁶²⁹
2665. He indicated he could not recall if he knew at the time that Mr Milad Mokbel had solicitors on the record.³⁶³⁰ Even assuming he did not know, it is submitted that this would not have been a difficult matter to ascertain and was probably obvious given pre-committal hearings and requests for pre-committal disclosure.
2666. On 7 March 2007 Ms Gobbo rang Mr O'Brien and arranged a meeting to discuss a plea by Mr Milad Mokbel. The meeting took place on 8 March 2007 in Ms Gobbo's chambers. Ms Gobbo was advised that the Purana Taskforce wanted ██████████
██████████

³⁶²⁵ Exhibit RC0933 Mr James (Jim) O'Brien diary, 6 March 2007; Exhibit RC0292 Mr Sandy White diary, 6 March 2007, 105, VPL.0100.0096.0468 @.0572; Exhibit RC0560 Mr Dale Flynn diary, 6 March 2007, 120, VPL.0010.0007.0001 @.0120.

³⁶²⁶ Transcript of James (Jim) O'Brien, 6 September 2019, 5809 [23] – [34], RCMPI_06Sep19_provisional; Transcript of James (Jim) O'Brien, 9 September 2019, 5814 [4] – [13], RCMPI_09Sep19_provisional.

³⁶²⁷ Transcript of James (Jim) O'Brien, 9 September 2019, 5815 [45] – 5816 [31], RCMPI_09Sep19_provisional.

³⁶²⁸ Transcript of Inspector Dale Flynn, 1 October 2019, 6975 [43] – 6976 [1], RCMPI_01Oct19_provisional.

³⁶²⁹ Transcript of Inspector Dale Flynn, 3 October 2019, 7111 [43], 7112 [6], RCMPI_03Oct19_provisional.

³⁶³⁰ Transcript of Inspector Dale Flynn, 1 October 2019, 6976 [3] – [6], RCMPI_01Oct19_provisional.

[REDACTED]. The issue of Mrs Renate Mokbel was also the subject of discussion.³⁶³¹

2667. When Mr O'Brien was questioned about this meeting he said, 'As I say I don't think it was a plan. She was passing on information in relation to Milad Mokbel. All I did was merely follow it through in an attempt to resolve this issue in relation to Mokbel and his outstanding charges and what I thought was required for him before I would bother to go to the Director of Public Prosecutions to seek an indication on sentence.'³⁶³²
2668. On 8 March 2007, Mr Dale Fitzgerald, a member of the same crew as Messrs Flynn and Rowe, had email communication with a member of the intelligence unit of Corrections Victoria, asking to be advised as to whether Mr Milad Mokbel had contact with any person following the serving of a notice of intention to interview him in relation to particular offending, and stating he believed Mr Milad Mokbel to be quite stressed. Mr Fitzgerald received a response from Corrections Victoria in which it was said that Mr Milad Mokbel had spoken with his wife telling her that a deal was being negotiated between Ms Gobbo and Purana, including a likely sentencing range. This response was forwarded to Mr O'Brien, copied to Messrs Flynn and Rowe. It was also sent on to other Purana members, Messrs Coghlan, Hayes and Ms Hantsis.³⁶³³ On 12 March 2007, Mr Rowe responded to Mr Fitzgerald that this sounded promising, and asked if he had listened to the call between Mr Milad Mokbel and his wife. Mr Rowe said he had been on leave and would be back in the office a few days hence so he could be filled in then.³⁶³⁴
2669. Mr Rowe was the informant in relation to the Operation Posse charges against Mr Milad Mokbel and was on leave at the time of the meeting between the SDU and Purana members on 6 March 2007 when Ms Gobbo's representation of Mr Milad Mokbel had been discussed.³⁶³⁵ It was put to Mr Rowe that as the informant for Mr Milad Mokbel he would have been aware of negotiations in order to resolve the matter. Mr Rowe said he would like to think so, but did not think that it occurred.³⁶³⁶ Given the various other Purana members present for the meeting, it is submitted that it is unlikely that, as the informant, Mr Rowe was not informed as to these circumstances when he returned from leave. It is submitted that as is apparent from his receipt and engagement with the email above, he was being kept informed.
2670. Further, in the months following Mr Rowe's engagement with Ms Gobbo in her capacity as legal representative of Mr Milad Mokbel. Mr Rowe said he could not recall how he knew that Ms Gobbo was acting for Mr Milad Mokbel, but that he understood she was doing it as a favour to him for a

[REDACTED]

³⁶³³ Exhibit RC0731 Exhibit RC0731 Email chain involving Dale Fitzgerald, James (Jim) O'Brien, Dale Flynn, Paul Rowe, Jim Coghlan, Angela Hantsis and Craig Hayes, 8 March 2007, VPL.6065.0200.4199.

³⁶³⁴ Exhibit RC0731 Email chain involving Dale Fitzgerald, James (Jim) O'Brien, Dale Flynn, Paul Rowe, Jim Coghlan, Angela Hantsis and Craig Hayes, 8 March 2007, VPL.6065.0200.4199.

³⁶³⁵ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 28 February – 11 March 2007, 61, RCMPI.0065.0001.0001 @.0061.

³⁶³⁶ Transcript of Detective Sergeant Paul Rowe, 9469 [45] – 9470 [15], RCMPI_19Nov19_provisional.

being done he would speak to Mr Overland. Either he would call Mr Overland, or Mr Overland might call him.³⁶⁴³

2675. That afternoon, Mr O'Brien spoke to Ms Gobbo who informed him that Mr Milad Mokbel wished to speak with him.³⁶⁴⁴ Following this Mr O'Brien received information from the SDU which he recorded as having come from '3838'. The information related to purported attempts by Mrs Renate Mokbel's legal representative, Alex Lewenberg, to defeat the charges against her. This included that he would write to the DPP stating that Ms Gobbo and another solicitor would not make statements, so no case would exist against Mrs Renate Mokbel. In this latter regard, Mr O'Brien used Ms Gobbo's real name in his diary entry.
2676. That night, Ms Gobbo told her handler that when Mr O'Brien spoke with Mr Milad Mokbel he must be firm, and he needed to 'rattle his cage'.³⁶⁴⁵ Mr O'Brien said he did not have a note of being told this information, and would have paid it scant regard in any case.³⁶⁴⁶
2677. Mr O'Brien said he took no steps to determine who the solicitor on the record was for Mr Milad Mokbel at the time, maintaining that whilst Ms Gobbo may have been attempting to facilitate a plea deal for Mr Milad Mokbel, he was never going to plead.³⁶⁴⁷
2678. It is submitted that whether Mr O'Brien believed that at the time or not, the likely failure of plea negotiations did nothing to excuse the condonation by him and others in Victoria Police of Ms Gobbo's representation of Mr Milad Mokbel. Further, it is noted that any view held by Mr O'Brien that such negotiations were hopeless, is belied by the actions of he, as the Officer in Charge of Purana, attending at Ms Gobbo's chambers, and the continued involvement of he and Mr Flynn to attempt to resolve the matter.
2679. On 13 March 2007, shortly after lunch Messrs O'Brien and Trichias went to the prison to meet with Mr Milad Mokbel.³⁶⁴⁸ When Mr Milad Mokbel was brought into a room the conversation commenced: ³⁶⁴⁹

MOKBEL: How you doing?

O'BRIEN: All right. You wanted to see us?

MOKBEL: Oh it's like I said to Nicola, um, my main concern is my wife.

O'BRIEN: Yeah.

³⁶⁴³ Transcript of James (Jim) O'Brien, 3 September 2019, 5433 [4] – [24], RCMPI_03Sep19_provisional.

³⁶⁴⁴ Exhibit RC0933 Mr James (Jim) O'Brien diary, 9 March 2007

³⁶⁴⁵ Transcript of James (Jim) O'Brien, 9 September 2019, 5819 [45] – 5820 [9], RCMPI_09Sep19_provisional.

³⁶⁴⁷ Transcript of James (Jim) O'Brien, 9 September 2019, 5817 [1] – [29], RCMPI_09Sep19_provisional.

³⁶⁴⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 March 2007,

MOKBEL: ... Plus, at the end of the day, if we can do something to help her out.

O'BRIEN: Yeah.

MOKBEL: The thing is...and that is that you think I might know or might not of, there's certain things I know of and like I said .. [REDACTED] that. Um, to ah, and [REDACTED], Sergeant Trichias ... It's what I hear after the fact to what you think is the truth. I'm not sitting here saying no you're full of shit, [REDACTED]
[REDACTED]
[REDACTED]
I'm not here to talk shit to you. I'm not gonna fuck you around. I know you're a busy man and I don't want to stuff you round either. End of the day is like I said to you, if I can work out a plea, [REDACTED].

O'BRIEN: It's like this Milad – all right?

MOKBEL: Yeah.

O'BRIEN: I'll be upfront with you.

MOKBEL: Yeah.

O'BRIEN: All right? I've had a discussion with Nicola.

MOKBEL: Yep.

O'BRIEN: I've had a discussion with the Director of Public Prosecutions.

MOKBEL: Yep.

O'BRIEN: And the view is that in relation to the Warrant of Apprehension for your wife, which is imminent, um, in fact I'll have that warrant in my possession later this afternoon.

MOKBEL: You're going to arrest her then?

O'BRIEN: No, I didn't say I was going to arrest her. I said I'll have that Warrant of Apprehension, whether execute it is a matter for myself, for the time I execute it.

MOKBEL: Yep.

O'BRIEN: What I'm saying to you is that we've agreed that it would be a matter for your Defence to apply for a Stay or (sic) Execution in relation to that Warrant and we would probably consent to some period of adjournment as to, depending on what meaningful discussions we were having with you.

MOKBEL: Okay. So, let me get this right, so if I ...her solicitors.

O'BRIEN: They would have to apply for an injunction.

MOKBEL: Could you ring them. Could you phone them - - -

O'BRIEN: Well I can do that.

MOKBEL: - - - and say that you spoke to me and this is all I think... at the moment. Okay if you can do that I can sit down here with you and I can discuss

O'BRIEN: Well alls I'm saying, telling you what we're prepared to do while there's some discussion going on.

MOKBEL: Yep.

O'BRIEN: Now the other part of that is, that um in the event that um we do that, um, that some situation would be worked out with her charges in relation to her perhaps pleading to one substantive count of Perjury instead of the four that's she's charged with. It would be a between dates issue. So that could be a rolled-up presentment on the basis that she could possibly get a non-custodial sentence. Now that's a matter for the Judge at the end of the day but the Director would probably agree with some sort of submission in relation to that. [REDACTED]

MOKBEL: Yeah.

O'BRIEN: Now what you tell these other dickheads out the back here is a matter for you.

MOKBEL: Yeah. No no, I

O'BRIEN: Just hang on a minute. What you tell them is a matter for you.

MOKBEL: Yeah.

2680. The conversation continued, following which Mr O'Brien noted that Mr Milad Mokbel had told them a 'complete fabrication of lies'.³⁶⁵⁰
2681. This transcript was not produced to the Commission until 13 September 2019, three days after the five day examination of Mr O'Brien was completed. Likewise, Mr Trichias had already been examined on a number of days in March and June 2019.
2682. Mr Flynn, who had received the transcript via email on 21 August 2008, in preparation for a court proceeding relating to Mr Horty Mokbel,³⁶⁵¹ was asked about the conversation during his evidence on 1 October 2019. It was put to Mr Flynn that Mr O'Brien was putting pressure on Mr Milad Mokbel, floating the possibility that if [REDACTED]. Mr

³⁶⁵⁰ Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 March 2007,

³⁶⁵¹ Exhibit RC01362 Email from Peter Trichias to Dale Flynn and Jim (James) O'Brien and attached transcript of conversation between Peter Trichias, James (Jim) O'Brien and Milad Mokbel, 13 March 2007, VPL.6038.0032.9133 and VPL.6038.0032.9134.

represented Mr Tony Mokbel, and also Mr Cooper in the Mr Milad Mokbel matter. It is submitted that it would be likely that this advice was discussed at least with Mr O'Brien once back at the office. Mr Coghlan's advice was apparently not sufficient to persuade those members from taking any steps to prevent the continued involvement of Ms Gobbo in respect of Mr Milad Mokbel's case.

2689. It is open for the Commissioner to find that Messrs Flynn and Rowe would have been aware that they could have raised the question with Mr Coghlan, who would have been able to take steps to ensure that Mr Milad Mokbel had independent legal representation.

2690. On 15 March 2007, Mr O'Brien updated Mr Overland in relation to matters including Mr Milad and Mrs Renate Mokbel. Later, Mrs Renate Mokbel was arrested and taken into custody, following her failure to pay the \$1 million or offer sufficient property to pay that amount.³⁶⁵⁷

2691. On 19 March 2007, Mr Sandy White briefed his line supervisors, Detective Inspector Rob Hardie and Superintendent Biggin, in relation to issues associated with Ms Gobbo and the upcoming committal of Mr Milad Mokbel, and threats being received by her. Mr Sandy White noted the need to 'lock up' Mr Horty Mokbel and to speak to Mr Ryan in relation to Mr Milad Mokbel. He then briefed Mr Ryan and following that spoke to Mr Flynn.

2692. Messrs Sandy White and Flynn discussed disclosure in relation to the upcoming committal of Mr Milad Mokbel and his co-accused, specifically what to do about notes taken by Mr Flynn on the night of Mr Cooper's arrest. They determined that Mr Flynn would disclose notes relating to the arrest of Mr Milad Mokbel, which occurred on 25 April 2006, but not those related to Mr Cooper. This was to be done on the basis of 'relevance', ostensibly deeming the arrest of Mr Cooper to be irrelevant. It was also noted that the defence had not specifically asked for notes relating to Mr Cooper. It was agreed that the best option would be for Mr Milad Mokbel to plead guilty, as this would avoid the need for disclosure.³⁶⁵⁸

2693. On [REDACTED] March 2007, Ms Gobbo reported to the SDU on a dinner with Messrs Horty Mokbel, Jacques El-Hage and others.³⁶⁵⁹ On [REDACTED] March 2007, she reported to the SDU on a dinner with Messrs Mick Gatto, Faruk Orman, Steven Kaya, John Khoury and others, reportedly as a celebration of the anniversary of Andrew Veniamin's death at the hands of Mick Gatto.³⁶⁶⁰

³⁶⁵⁷ [REDACTED]; Exhibit RC0284 SML3838, 16 March 2007, 98, VPL.2000.0001.9447 @.9544; Exhibit RC1856 Prosecution opening in *The Queen v Renate Lisa Mokbel*, 7 [21], 12 [37], COR.1016.0001.0026 @.0007, .0012; Exhibit RC1843 Office of Public Prosecutions key documents of *The Director of Public Prosecutions v Renate Mokbel*, 316 [3.7], RCMP1.0119.0001.0001 @.0316.

³⁶⁵⁸ Exhibit RC0292 Mr Sandy White diary, 19 March 2007, 121-122, VPL.0100.0096.0468 @.0588-.0589.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2694. On [REDACTED] March 2007, Ms Gobbo reported to the SDU that she had heard from Mr Thomas that Mr Cooper was unhappy as to the sentence he had received. Mr Cooper was reportedly not happy as to the advice he had received from Ms Gobbo. Ms Gobbo was in tears exclaiming that she had paid for his legal fees and meal money. Mr Flynn was advised in relation to this matter.³⁶⁶¹ There was a dispute in the evidence as to whether Mr Cooper had in fact provided Ms Gobbo with a large sum of money prior to going into custody.³⁶⁶² Furthermore in 2006, Ms Gobbo had arranged that money she had been paying into Mr Cooper's prison account was instead paid by the Purana Taskforce in a manner whereby Mr Cooper believed Ms Gobbo was still making those payments.³⁶⁶³

2695. On [REDACTED] March 2007, Ms Gobbo reported to Mr Anderson that she was intending to attend prison to speak to Mr Cooper and others on 29 March 2007.³⁶⁶⁴ The following day Mr Flynn spoke with Mr Shane Kelly at Corrections Victoria in relation to an inquiry for Mr Anderson in relation to prison visits for Mr Milad Mokbel, Mr Cooper and Mr Carl Williams. ³⁶⁶⁵

2696. On [REDACTED] March 2007, Ms Gobbo was told by her handler that Mr Flynn had spoken with Mr Cooper, who had said he was not speaking to Ms Gobbo for her own safety, indicating an awareness of threats made to her. Mr Flynn indicated that there did not appear to have been any compromise.³⁶⁶⁶ Mr Flynn's diary reflects that he liaised with Mr O'Brien following this conversation.³⁶⁶⁷

2697. On [REDACTED] March 2007, Ms Gobbo met with Messrs Sandy White, Peter Smith and Anderson from the SDU. During the long meeting they discussed matters including:³⁶⁶⁸

- concern about material being discovered from the night of Mr Cooper's arrest which would:
- demonstrate 'massive inconsistent statements' told by him
- cause her dual role to be exposed

the way in which such disclosure issues were being handled, including that:

- no notes related to Mr Cooper were being handed over at this stage to any outside person under form 8A
- this was effectively a deferral of the issue and a plausible response needed to be formulated
- a claim of public interest immunity was not an option as this would not keep the information secret

³⁶⁶¹ [REDACTED]

³⁶⁶² Transcript of Mr Cooper, 31 October 2019, 8729–8731, TRN.2019.10.31.01; Transcript of Ms Nicola Gobbo, 4 February 2020, 13056–13057, TRN.2020.02.04.01.

³⁶⁶³ Transcript of Ms Nicola Gobbo, 4 February 2020, 13056, TRN.2020.02.04.01.

[REDACTED]; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Sandy White, Peter Smith and Anderson, [REDACTED] March 2007, [REDACTED]

- they 'got away with' not having to produce such material in relation to Mr McGrath, when Mr Bateson blacked out references to Ms Gobbo
- the possibility that Ms Gobbo might be able to represent one of Milad Mokbel's co-accused in the committal, [REDACTED]
- that the SDU were going to sit down with all the Purana investigators who were present on the night and go through all their notes
- reference to Milad Mokbel having solicitors and counsel, who were on the record, and providing him with advice relating to checking warrants which Ms Gobbo had already done

Ms Gobbo's intended visit to Milad Mokbel the following Monday where she would discuss his pleading guilty, and how she would advise him, including:

- the need for him to think about the bigger picture, that is, if he didn't plead guilty he would face charges of trafficking over a longer period
- that she would raise things from the past where she had turned out to be right
- that the longer he left it, the more evidence the prosecution would have
- Ms Gobbo's desire that Renate Mokbel not be released from custody the following week, as this might assist to make Milad Mokbel more receptive to her suggestions and influence. In this regard Ms Gobbo also suggested it 'would be good if he got more charges'.

2698. Mr O'Brien stated he did not recall the SDU meeting with investigators and going through notes. He went on that 'this is the very sort of thing, materials and foibles why we outsourced this human source along with other human sources, dealing with all this sort of material and their worries and concerns. That wasn't of concern to me. I was about information, investigating criminality',³⁶⁶⁹ He denied these matters ever being discussed with him saying that 'at all stages we would have had to produce material to the court.'³⁶⁷⁰

2699. On [REDACTED] April 2007, Ms Gobbo advised the SDU that she was involved in Renate Mokbel's submissions to the Court of Appeal.³⁶⁷¹ This related to the surety application which had earlier been dismissed by the Supreme Court.

2700. On [REDACTED] April 2007, Ms Gobbo spoke with the SDU about Mr Milad Mokbel. She said:³⁶⁷²

- he had been wrongly convinced by other lawyers that Purana would not be serving additional charges on him and that she had lost her temper and told him he would face further charges
- he wanted Renate released and was desperate to resolve matters to assist that course

³⁶⁶⁹ Transcript of James (Jim) O'Brien, 9 September 2019, 5829 [8] – [21], RCMP_09Sep19_provisional.

³⁶⁷⁰ Transcript of James (Jim) O'Brien, 9 September 2019, 5829 [28] – [32], RCMP_09Sep19_provisional.

[REDACTED]
[REDACTED]

- he didn't think Mr O'Brien would return to see him, and Ms Gobbo said he would return when Renate Mokbel was refused leave to appeal
 - Milad would not deal with Mr Trichias.
2701. On [REDACTED] April 2007, Ms Gobbo's handler told Mr O'Brien that Mr Milad Mokbel would still broker a deal to plead guilty, and that he didn't like Mr Trichias.³⁶⁷³
2702. On [REDACTED] April 2007, the SDU handler recorded 'Discussed possible defences open for Renee in her surety case.' It is unclear whether Ms Gobbo had this discussion with the handler or was reporting a discussion with Mrs Renate Mokbel or someone otherwise associated with the case.³⁶⁷⁴
2703. On 13 April 2007, Mr Horty Mokbel was arrested and remanded into custody.³⁶⁷⁵
2704. On [REDACTED] April 2007, Ms Gobbo discussed with Mr Anderson the problem she believed she had identified in Mr Milad Mokbel's brief of evidence. It is apparent she identified the voice of someone, presumably from listening device or telephone intercept evidence on the brief. This information was passed to Mr Flynn.³⁶⁷⁶
2705. On [REDACTED] April 2007, Ms Gobbo reported to the SDU that Mr Milad Mokbel was furious after having seen statements made by Mr Cooper. He had asked Ms Gobbo if she saw or visited him, which led to concern that subpoenas might be issued which would reveal her ongoing contact with Mr Cooper. The SDU handler recorded discussing the issue with Mr O'Brien who advised that the Purana Taskforce had an agreement in place with the prison to advise of all subpoenas.³⁶⁷⁷
2706. Mr O'Brien's diary recorded that he had spoken with the handler and that 'Milad is very annoyed re [Mr Cooper] evidence' but did not refer to the conversation about subpoenas. Mr O'Brien said he had no memory and no note of such a discussion, but he was not saying it didn't happen.³⁶⁷⁸
2707. On [REDACTED] April 2007, Ms Gobbo told her handler, Mr Anderson, she would like to see Mr Milad Mokbel to 'assist' him to plead guilty to all charges. She stated that Mrs Renate Mokbel would need to stay in gaol to enable that to occur. There was general conversation about Ms Gobbo not representing or providing legal advice to the Mokbels.³⁶⁷⁹ The next day Ms Gobbo advised Mr Anderson that she was on Mr Horty Mokbel's contact list at the prison.³⁶⁸⁰
2708. On [REDACTED] April 2007, Ms Gobbo told the SDU that Mr Milad Mokbel was very keen to plead guilty, he was concerned about his wife in custody and wanted to speak with Mr O'Brien. The ICR records Mr O'Brien being notified of this by the SDU.³⁶⁸¹ Mr O'Brien, in the absence of a note in his own diary,

³⁶⁷³ Exhibit RC0933 Mr James (Jim) O'Brien diary, 10 April 2007,
[REDACTED]

³⁶⁷⁵ Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 April 2007
[REDACTED]

³⁶⁷⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 13 April 2007; RC0281, [REDACTED]

³⁶⁷⁸ Transcript of James (Jim) O'Brien, 9 September 2019, 5832 [45] – 5833 [1],
RCMPI_09Sep19_provisional.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

would not accept that he had been given this information.³⁶⁸² It was suggested to Mr O'Brien that given Mr Flynn subsequently attended the prison to speak with Mr Milad Mokbel, that he might have handed the matter to Mr Flynn. Mr O'Brien conceded that he may have done this.³⁶⁸³

2709. On the same day, Ms Gobbo met with Mr Flynn. Mr Flynn's diary entry suggests:
- Ms Gobbo was seeking his assistance in relation to an extended meeting time for her with Mr Cooper
 - Ms Gobbo's representation of Milad Mokbel, who might plead because of concern related to his wife.³⁶⁸⁴
2710. On 2 May 2007, Mr O'Brien attended at a dinner with Ms Gobbo and a number of members of the SDU including Mr Sandy White, where he presented her with a silver pen in appreciation of her assistance to the Purana Taskforce. The dinner went for approximately 5 hours. Messrs O'Brien and Sandy White left in the same car, then drove together to work again the next day. Mr O'Brien was asked if they took the opportunity to discuss the situation relating to Ms Gobbo trying to negotiate a plea for Mr Milad Mokbel, in circumstances where it would benefit her own situation. Mr O'Brien's response was no, because 'at the end of the day he was a Mokbel and he was never going to provide us anything as far as I was concerned'. He was then asked whether that made it alright that Ms Gobbo was advising him. He responded, 'No, I don't say that at all. It's not something I had any sway over.' He was asked if he sought advice about whether he could prevent such a situation. He then said he did not, his foremost consideration was the life of the informer, making reference to the deaths of the Hodsons.³⁶⁸⁵
2711. Mr Flynn told the Commission that Mr O'Brien did not take any steps to prevent Ms Gobbo from acting as Mr Milad Mokbel's lawyer. He was asked whether he accepted that ordinarily discussions about resolution would be carried out with instructing solicitors on the record, not going behind instructing solicitors to speak with a barrister that was an agent of police. Mr Flynn responded that the only exceptional circumstance he had with those conversations was the fact that Ms Gobbo was a human source and talking to her as a legal representative did not strike him as being unusual.³⁶⁸⁶
2712. Mr Flynn stated that it was his belief that any conflict of interest was a matter for Ms Gobbo to deal with herself. It was put to him that this was a situation where it was clear that Ms Gobbo had an 'ethical bypass' and did not consider herself to be bound by any ethical constraints, and that to leave it to Ms Gobbo was a derogation of his duties. Mr Flynn responded that was not something he considered at the time, and also maintained that he did

³⁶⁸² Transcript of James (Jim) O'Brien, 9 September 2019, 5834 [25] – [34], RCMP_09Sep19_provisional.

³⁶⁸³ Transcript of James (Jim) O'Brien, 9 September 2019, 5834 [45] – 5835 [5], RCMP_09Sep19_provisional.

³⁶⁸⁴ Exhibit RC0560 Mr Dale Flynn diary, 30 April 2007, 18, RCMP.0062.0002.0001@.0018.

³⁶⁸⁵ Transcript of James (Jim) O'Brien, 9 September 2019, 58345 [13] – 5837 [8], RCMP_09Sep19_provisional.

³⁶⁸⁶ Transcript of Inspector Dale Flynn, 3 October 2019, 7110 [13] – [41], RCMP_03Oct19_provisional.

not know what he could do about it.³⁶⁸⁷ It was suggested that there were a number of things that could have been done, including that they could have exposed the issue, or told Ms Gobbo that if she persisted in representing Milad Mokbel, then Victoria Police would have to expose the issue. Mr Flynn agreed that these things could have been done and should have been discussed.³⁶⁸⁸

2713. On [REDACTED] May 2007, Ms Gobbo reported to the SDU that Mr Milad Mokbel was expecting to see Mr Flynn that day and was indicating regret about listening to other legal advice and that he should have pleaded guilty in the first instance. She indicated he was reporting sacking his current solicitor and that he had told Mr Flynn to deal with Ms Gobbo. Ms Gobbo said she was not going to represent or appear at court for Mr Milad Mokbel.³⁶⁸⁹
2714. That day Mr Flynn attended prison and spoke with Mr Milad Mokbel. They spoke about further matters on which the Purana Taskforce might interview him. Following the conversation Mr Flynn updated Mr O'Brien.³⁶⁹⁰
2715. On 14 May 2007, Mr Flynn spoke with Ms Gobbo about a possible plea of guilty by Mr Milad Mokbel. Mr Flynn told Ms Gobbo about the further matters on which the Purana Taskforce might interview him, including Operations Landslip and Matchless. He told Ms Gobbo that he required a serious plea offer before considering what would be put in any plea summary, and that he would consider a between dates charge. Ms Gobbo was to speak further with Mr Milad Mokbel and then speak again to Mr Flynn.
2716. On 15 May 2007, Ms Gobbo reported to the SDU that she had been talking to Mr Flynn about a plea deal for Mr Milad Mokbel, and that she could not talk to Mr Milad Mokbel's solicitor on the record. Ms Gobbo was reminded that it was not appropriate for her to represent Mr Milad Mokbel. She agreed, adding that he had failed to pay her \$40,000 in fees.³⁶⁹¹
2717. On [REDACTED] May 2007, Ms Gobbo told the SDU that Mr Flynn had told her that Mr Cooper wanted to see her.³⁶⁹² On [REDACTED] May 2007, Ms Gobbo requested of the SDU that Mr Flynn be contacted in order to arrange a visit to Mr Cooper.³⁶⁹³ Following this Ms Gobbo was told that Mr Flynn had been unable to arrange a contact visit. She indicated that neither Mr Cooper nor Mr Thomas would see her in a box visit.³⁶⁹⁴
2718. On 21 May 2007, during a meeting between Messrs Sandy White and Anderson and Ms Gobbo, there was discussion about Mr Flynn's police notes. It was agreed that:
- the notes would be blacked out and given to the OPP

³⁶⁸⁷ Transcript of Inspector Dale Flynn, 3 October 2019, 7111 [3] – [23], 7112 [8] – [28] RCMPI_03Oct19_provisional.

³⁶⁸⁸ Transcript of Inspector Dale Flynn, 3 October 2019, 7112 [30] – [44] RCMPI_03Oct19_provisional.

[REDACTED]

- there would be no claim for privilege
 - if there was any scrutiny, they would say the notes were redacted to protect Ms Gobbo because of death threats, where the prime suspects were Horthy Mokbel and associates and it was believed the notes would aggravate the situation.³⁶⁹⁵
2719. On [REDACTED] May 2007, Ms Gobbo reported to the SDU that Mr Milad Mokbel's solicitor was not allowing him to plead guilty, the OPP were indicating they could not assist in relation to the release of Mrs Renate Mokbel, that Mr Milad Mokbel required lots of money to prepare for the committal, that he wanted the matter settled and believed he would accept Mr Flynn's terms. Ms Gobbo said she didn't want to be involved in the matter, but Mr Milad Mokbel was insisting on it. ³⁶⁹⁶
2720. On [REDACTED] May 2007, a discussion took place between Ms Gobbo and Mr Anderson in which it was indicated that there would be no negotiating in relation to Mr Milad Mokbel, the terms had been set, and the ability to release Mrs Renate Mokbel could no longer be included.³⁶⁹⁷
2721. On 25 May 2007, Ms Gobbo told Mr Anderson she wanted to speak with Mr Flynn so she was clear on what she would tell Mrs Milad Mokbel as to the terms of a plea agreement. She spoke about wanting to arrange a solicitor to negotiate on his behalf.
2722. On 28 May 2007, Ms Gobbo spoke further with Mr Flynn. She reported on the conversation with her handler, and that she had told Mr Milad Mokbel that he had to plead to a between dates trafficking charge. Ms Gobbo told her handler that she wanted a contact visit with Mr Cooper before he gave evidence at the committal of Mr Milad Mokbel.³⁶⁹⁸
2723. On the same date, Ms Gobbo conducted a plea hearing on behalf of Mr Agrum. Mr Agrum had been arrested alongside Mr Cooper. Ms Gobbo had provided information to police which had assisted in Mr Agrum's arrest and prosecution. Mr Flynn attended at his plea hearing. He was aware that Ms Gobbo should not have been representing Mr Agrum.³⁶⁹⁹
2724. On 29 May 2007, Mr Rowe, who was the informant in relation to the Operation Posse charges against Mr Milad Mokbel, called Ms Gobbo to ask whether Mr Milad Mokbel would provide a voluntary DNA reference sample. Mr Rowe said that the enquiry was on behalf of another Purana member conducting another investigation, and that it was usual practice to ask a person's lawyer if they would provide a voluntary sample before seeking a court order.³⁷⁰⁰
2725. On [REDACTED] June 2007, Ms Gobbo told the SDU that Mr Milad Mokbel had changed instructing solicitor to Mr Lewenberg.³⁷⁰¹ On [REDACTED] June 2007 she told her

³⁶⁹⁵ Exhibit RC0292 Mr Sandy White diary, 22 May 2007, 20, VPL.0100.0096.0621 @.0640.

[REDACTED]
[REDACTED]
³⁶⁹⁸ Exhibit RC0538 Statement of Inspector Dale Flynn, 17 June 2019, 14 [77], VPL.0014.0042.0001 @.0014.

³⁶⁹⁹ Transcript of Inspector Dale Flynn, 3 October 2019, 7118 [13] – [23], RCMPPI_03Oct19_provisional.

³⁷⁰⁰ Exhibit RC0266 Statement of Detective Sergeant Paul Rowe, 25 June 2019, 21 [150], VPL.0014.0035.0028 @.0048.

[REDACTED]

handler that she was attending upon Mr Lewenberg in relation to Mr Milad Mokbel's plea deal. She later reported details of quantities of money being paid to solicitors in respect of the representation of Mr Milad and Mrs Renate Mokbel. This information was passed to Mr O'Brien.³⁷⁰²

2726. Mr O'Brien was asked if he'd ever had concerns that Ms Gobbo might have been charging fees and receiving funds that were being paid to solicitors for the representation of Mr Milad Mokbel or others in similar situations. He indicated that he didn't believe so. He accepted that the lawyers involved were not acting for free, and they were being paid just as he was. It was put that someone like Mr Milad Mokbel might have thought something was wrong if she had offered to work for free. Mr O'Brien responded that he did not know what her payment arrangements were.³⁷⁰³
2727. Mr O'Brien suggested in his evidence that information about lawyers' funding may not have been important to him.³⁷⁰⁴ At the very least, the quantity of money involved may have indicated whether Mr Milad Mokbel was preparing to fully contest the charges at the committal.
2728. On 12 June 2007, Messrs O'Brien and Flynn met with Mr Lewenberg and his associate to discuss the terms of a plea by Mr Milad Mokbel. There was discussion as to whether anything could be done about the sentence being served by Renate Mokbel. Mr O'Brien stated that Mrs Renate Mokbel's sentence was not legally negotiable. They agreed to discuss the matter further if negotiations continued.³⁷⁰⁵
2729. On 15 June 2007, Ms Gobbo met with Messrs Sandy White, Anderson and Fox. The long conversation included:
- Ms Gobbo wanting to speak with Mr Cooper prior to his giving evidence
 - the terms on which Milad Mokbel would be prepared to plead guilty; he would plead to the Posse charges, but if he was to be charged with anything further and was looking at a ten year sentence, then he would fight it
 - Ms Gobbo's stress levels, which she believed would resolve 'when the Milad issue is over. ie he pleas'.
2730. On [REDACTED] June 2007 Ms Gobbo told Mr Fox, who had taken over as handler, that Mr Milad Mokbel wanted to plead, but Mr Lewenberg would not assist until he was paid. Ms Gobbo asked if the SDU could speak with Mr Flynn. Mr Fox told Ms Gobbo that she needed to keep her distance from the court process which she said she understood. She told Mr Fox she wanted Mr Milad Mokbel to plead guilty as this assisted her with the upcoming committal issues related to Mr Cooper, which she then explained. Ms Gobbo indicated that she wanted daily updates from Mr Flynn.³⁷⁰⁶

[REDACTED]
³⁷⁰³ Transcript of James (Jim) O'Brien, 9 September 2019, 5838 [41] – 5839 [29], RCMPI_09Sep19_provisional.

³⁷⁰⁴ Transcript of James (Jim) O'Brien, 9 September 2019, 5839 [45] – 5840 [13], RCMPI_09Sep19_provisional.

³⁷⁰⁵ Exhibit RC0933 Mr James (Jim) O'Brien diary, 12 June 2007, 67
[REDACTED]

2731. On [REDACTED] June 2007, Ms Gobbo reported to Mr Fox frustration at a lack of action in relation to Mr Milad Mokbel's plea. She said she wanted it done so he would not contest the committal.³⁷⁰⁷
2732. On [REDACTED] June 2007, Ms Gobbo reported to Mr Fox that Mr Milad Mokbel still wanted her to act for him and that she had told him she could not because she had previously acted for Mr Cooper. She said Mr Milad Mokbel did not get this, and even if he used another lawyer, he would still come to her for advice. She expressed confidence that she could attend the prison and that he would listen to her. Mr Fox told her again that she was not to represent Mr Milad Mokbel.³⁷⁰⁸
2733. On [REDACTED] June 2007, Ms Gobbo again spoke to Mr Fox about Mr Milad Mokbel. She told him that she was confident she could turn him around and get him to plead guilty. Ms Gobbo said she understood that it was best that she not represent him, and said she had told Mr Milad Mokbel that if he didn't pay, she would not act for him.³⁷⁰⁹
2734. Later that night they spoke again. Ms Gobbo reported that Mr Lewenberg was going to be interstate during the committal of Mr Milad Mokbel and she was concerned that his attitude to pleading might change without support. Ms Gobbo said that Mr Milad Mokbel had indicated an intention to plead guilty to charges relating to a threat to kill, but would reserve his plea in relation to the Posse charges. Mr Fox then told her that she could 'speak with' Mr Milad Mokbel if she thought it would help, but that she could 'not represent' him as they had discussed numerous times. Ms Gobbo said she would speak to Mr Flynn and then ring Mr Milad Mokbel.³⁷¹⁰
2735. On [REDACTED] June 2007, Ms Gobbo reported to Mr Fox on her conversation with Mr Milad Mokbel, stating that she told him the best option was for him to consolidate all matters and consider a between dates trafficking charge. She said she would talk further with him.³⁷¹¹
2736. On 29 June 2007, Mr Flynn attended at Ms Gobbo's chambers and spoke to her in relation Mr Cooper and Mr Agrum.³⁷¹²
2737. Later that morning, Mr Sandy White met with Purana investigators, Messrs O'Brien, Flynn, Rowe, Kelly and Johns, to discuss the committal of Mr Milad Mokbel and his co-accused, which was due to commence on 2 July 2007.
2738. They discussed the issue of police notes revealing Ms Gobbo's attendance at the police station on the night Mr Cooper was arrested, and the claim of public interest immunity. It was agreed that Mr Flynn's notes would be redacted. Mr Sandy White's diary indicates that this was to be done on the basis of both relevance and threats against Ms Gobbo. The SML indicated that it was determined that if Mr Flynn was cross-examined about the issue,

[REDACTED]

³⁷¹² Exhibit RC0560 Mr Dale Flynn diary, 29 June 2007, 70, RCMPI.0062.0002.0001 @.0070.

he would need to reveal that Ms Gobbo had attended to provide legal advice.³⁷¹³

2739. Mr Flynn said in evidence he did not recall the meeting, although accepted it occurred.³⁷¹⁴

2740. Mr Rowe said that he recalled discussions about notes being redacted and he believed the evidence suggested that this is what occurred.³⁷¹⁵ He was asked about obtaining legal advice in relation to disclosure requirements in such a circumstance:

MS TITTENSOR: Do you think that there would have been those discussions or it just simply wouldn't have been discussed?

MR ROWE: I don't know. The difficulty is, you know, balancing her two roles. You know, as an informer, yep, we'd be entitled not to disclose it. Yep, I understand that, you know, there's other things that have to occur, but her role as a, you know, solicitor, barrister, whatever, you know, ordinarily we wouldn't be entitled to.

MS TITTENSOR: Ordinarily, well it's not a basis for redacting notes that someone is representing someone?

MR ROWE: No, unless of course she's a source.

MS TITTENSOR: All right?

MR ROWE: But that's the whole point, isn't it? That's the whole difficulty of it. None of us would ever be here if there wasn't that second part of it, and that second part of it has implications with disclosure and PII. That's the whole difficulty. I'm not suggesting we did it right or we couldn't have done it better, but they're the issues that we were all trying to navigate.

MS TITTENSOR: Take out of the fact she was a source out of that?

MR ROWE: But you can't.

MS TITTENSOR: Take out the fact she was a source, there's no basis upon which to redact her turning up and providing advice on the night?

MR ROWE: No, but we're all here talking about it, the fact that she is. How can I put my thought process in place saying she wasn't? Ordinarily, any other circumstance you're absolutely right.

³⁷¹⁴ Transcript of Inspector Dale Flynn, 3 October 2019, 7122 [40] – [42], RCMPI_03Oct19_provisional.
³⁷¹⁵ Transcript of Detective Sergeant Paul Rowe, 9474 [1] – [20], RCMPI_19Nov19_provisional.

- questions about Mr Cooper's record of interview which was called for production.³⁷²¹ During evidence to the Commission when it was put that such a document should have been provided by way of ordinary disclosure, Mr Flynn said that 'our response would be if we were asked for it we would provide it, but if we weren't asked for it we wouldn't provide it'³⁷²²
- questions in relation to the taking of Mr Cooper's statements which had been signed on 6 August 2006. Mr Flynn said his statements were taken using a word processor where changes would be made and saved over the previous version. In relation to one of those statements (presumably relating to Mr Domenic Barbaro as his counsel was asking the questions) Mr Flynn said there were no other drafts and otherwise no record of any changes made during the statement process:³⁷²³

DEFENCE COUNSEL: Do you still have any of your notes for any - I'm sorry, I'll do it another way. The version that you have in front of you now, is that in fact the very statement that was taken on a previous occasion previous to 6 August and in that form?

MR FLYNN: This is the one and only version of this statement that's been taken.

DEFENCE COUNSEL: Were there earlier drafts of it?

MR FLYNN: No.

DEFENCE COUNSEL: There never were any changes made from the time that you first started talking with Mr Cooper?

MR FLYNN: Certainly there might've been changes made during the course of taking the statement.

DEFENCE COUNSEL: Do we have a record of those changes that we can see from now on?

MR FLYNN: No, no, we do not.

(Discussion ensued.)

- in relation to this evidence Mr Flynn told the Commission that the word 'draft' sometimes confused him, and his understanding of a draft was that it was a document which would be marked as 'draft 1' or 'draft 2', although he had not indicated any such confusion or his strict definition of a draft when emphatically answering the questions asked of him. Mr Flynn conceded that in fact he had printed some for Mr O'Brien, and he delivered printed versions to the SDU on 9 June 2006 for Ms Gobbo's review, and that he had possibly emailed earlier versions of statements to colleagues. Mr Flynn disagreed with the suggestion that his evidence at the committal was misleading, stating

³⁷²² Transcript of Inspector Dale Flynn, 3 October 2019, 7125 [45] – 7126 [2]
RCMPI_03Oct19_provisional.

that their (presumably Taskforce Purana's) process was not to have draft copies of statements, and that he did not believe that the existence of those other versions came to mind when he gave that evidence. It was put to Mr Flynn that he was well aware that defence counsel was trying to elicit information about how the statements came into being, and he was well aware that Ms Gobbo had been involved in that process, and that his emphatic answers concealed those events. Mr Flynn said he did not think he considered those events when answering the question. When Mr Flynn was asked if he had been uncomfortable giving such evidence at the committal, he responded that he had been uncomfortable about that fact that it might expose Ms Gobbo's role with Mr Cooper. He said he would only have revealed that Ms Gobbo had spoken to him and Mr Cooper about his statements on 14 May 2006 and reviewed the statements on 9 June 2006 if he had been asked direct questions about it³⁷²⁴

- questions as to whether Mr Cooper asked for access to any legal advisor prior to his first record of interview:

DEFENCE COUNSEL: Was he given access to any legal adviser before that first interview process, record of interview process took place?

MR FLYNN: Yes, he was.

DEFENCE COUNSEL: Can you tell us who that was?

MR FLYNN: Yes, it was Nicola Gobbo.

DEFENCE COUNSEL: Before any statement, before that very first interview happened, the record of interview, he was asked for and given access to Miss Gobbla? (sic)

MR FLYNN: Gobbo.

DEFENCE COUNSEL: Gobbo, is it?

MR FLYNN: Yes.

(Discussion ensued.)

DEFENCE COUNSEL: On subsequent occasions when statements were taken, was a legal representative for Mr Cooper also present?

MR FLYNN: No.

DEFENCE COUNSEL: The only time that he sought and was given access, required access to a legal representative, was before the very first interview occurred?

HIS HONOUR: Would I be right in assuming she wasn't present when he made the statements more than she just saw him before he did?

³⁷²⁴ Transcript of Inspector Dale Flynn, 3 October 2019, 7127 [27] – 7133 [5], RCMPI_03Oct19_provisional.

- MR FLYNN: She wasn't present for any of the statements.*
- DEFENCE COUNSEL: That's why I put my question. The only time that he saw - was given access to her was before he made that first record of interview?*
- MR FLYNN: Well, as I said, the interview went over a number of hours, so I - I would have to check to see whether there were more than one call made, but - but that was it basically.*
- DEFENCE COUNSEL: Was it necessary during the course of that first interview which you say took place over a number of hours for - in fact, did Mr Cooper ask for access to his legal adviser?*
- MR FLYNN: He asked for his - her - for his legal adviser at the very moment he was arrested. Now, that - that - that was at the scene. Now, initially that was denied in relation to the search warrant, but by the time he was back at the police station and before he was put in the formal interview, he was able to - given access to a telephone and made - rang his legal adviser.*
- DEFENCE COUNSEL: She attended at the police station?*
- MR FLYNN: Yes.*
- DEFENCE COUNSEL: Did she remain at the police station over the number of hours that that first interview, record of interview process took place?*
- MR FLYNN: I don't believe so, no.*
- DEFENCE COUNSEL: Did he have access to or ask for access to - had any of the breaks or any time during the time at which that first record of interview commenced until it finally concluded?*
- MR FLYNN: There's - he may have made further phone calls at later stages, I - I would - I would have to check, but certainly if he needed to contact her, he was given that opportunity.*

2747. Mr Flynn was cross-examined about a number of aspects of this evidence. In relation to his evidence as to Ms Gobbo's presence during occasions when statements were taken, it was suggested that Mr Flynn's evidence was misleading given that Ms Gobbo had been present on 14 May 2006, having been called in to have a conversation with Mr Cooper as Mr Flynn felt that he was not being forthcoming about financial dealings or providing fulsome evidence about his associates. Mr Flynn disagreed saying that statements were being taken prior to Ms Gobbo's arrival, but not whilst she was there. He said he answered the question in the way he did because

there were no legal representatives present when they physically sat down and typed the statements with Mr Cooper.³⁷²⁵

2748. Mr Flynn's diary of 14 May 2006 reveals that Mr Cooper was brought from the location he had been making the statement to the Victoria Police Centre. Mr Flynn picked up Ms Gobbo from chambers and brought her to that location where the three of them had a conversation, then Ms Gobbo and Mr Cooper spoke alone, Mr Flynn joined them and wound up the conversation, then Mr Cooper was taken away, then Mr Flynn had a further conversation with Ms Gobbo about the statement process 'etc' before dropping her at chambers, then Mr Flynn went to Mr Cooper's location to speak with him about his meeting with Ms Gobbo. The statements were recommenced on 16 May 2006.³⁷²⁶ The evidence demonstrates that these diary entries had not been disclosed to the defence prior to the committal hearing. It is submitted that they were disclosable and the defence would have been assisted by them.
2749. In relation to Ms Gobbo's presence on the day of Mr Cooper's arrest, Mr Flynn agreed that he knew very well the situation in relation to Ms Gobbo's involvement on the night, that she had attended twice, that she had been called back and that she and Mr Flynn had spent a considerable amount of time with Mr Cooper pushing him to co-operate with police.³⁷²⁷
2750. When it was suggested to Mr Flynn that he was not providing an accurate picture in his answers, he responded that it appeared from his answer that he was wanting to check his diary and if he had been asked to do that he would have outlined the detail in it. It was then suggested that in Mr Flynn answering 'that was it basically' he was conveying that Ms Gobbo had minimal involvement. He agreed that appeared to be incorrect, but disagreed it was trying to mislead anyone. It was then put to Mr Flynn that he knew very well that there was more than one call to Ms Gobbo, to which he responded that he suspected he did know that but he wasn't sure of times. Mr Flynn conceded it likely that entries in his diary in relation to 22 April 2006 had been redacted. He could not say on what basis they were redacted but presumed it would be about public interest immunity and human source matters.³⁷²⁸
2751. It was put to Mr Flynn that the questions of counsel indicated they were seeking an understanding of what the actual sequence of events had been on the night, and that if they had become aware of that information things may have panned out in a very different way. He agreed. He also agreed that he knew prior to the committal that the defence would want to know about the process by which Mr Cooper came to assist as it may be relevant to his credibility, and similarly as to the statement taking process.³⁷²⁹

³⁷²⁵ Transcript of Inspector Dale Flynn, 3 October 2019, 7133 [16] – 7136 [4], RCMPI_03Oct19_provisional.

³⁷²⁶ Exhibit RC0560 Mr Dale Flynn diary, 14, 16 May 2006,

³⁷²⁷ Transcript of Inspector Dale Flynn, 3 October 2019, 7136 [39] – 7137 [5], RCMPI_03Oct19_provisional.

³⁷²⁸ Transcript of Inspector Dale Flynn, 3 October 2019, 7137 [7] – 7139 [20], RCMPI_03Oct19_provisional.

³⁷²⁹ Transcript of Inspector Dale Flynn, 3 October 2019, 7140 [18] – 7141 [5], RCMPI_03Oct19_provisional.

MR SANDY WHITE: Yep.

MS GOBBO: - - - and he knows that Flynn unfortunately had to say I was there.

MR SANDY WHITE: Yep.

MS GOBBO: And he knows on that basis that he can't let his hero Dale Flynn down by lying.

MR SANDY WHITE: Yep.

MS GOBBO: And - and I said to Flynn he - you know, "You" - I said, "He hangs off your every word." Now, I said to him that, "You can't" - 'cause apparently what happened is Cooper rang Flynn this morning.

MR SANDY WHITE: Yep.

MS GOBBO: When he rang me, he'd spoken to Flynn and he said, "He didn't tell me very much," and I said, "Cooper, I told you before he can't. He's a witness, he's not allowed to talk to people."

MR SANDY WHITE: Mm.

MS GOBBO: But I said, "I can." And I said, "I understand that this is what happened." I actually said to him, "You want the good news or the bad news?" He said, "Give me the bad news." I told him exactly what he was asked and what his answers were and he goes, "Oh, how could Dale have done that?" I said, "Listen, Cooper. Dale said to me that when the question got asked he was fucked. He couldn't say anything else." Like, they were his exact words.

MR SANDY WHITE: Mm.

MS GOBBO: Now, I said, "He couldn't say anything." I said, "He can't claim privilege on the name of a person."

MR SANDY WHITE: Mm.

MS GOBBO: "He can't do that, Cooper." "Oh, but," you know, "Milad's gonna fucking kill you," blah blah blah. I said, "It's done. It's out. It's the truth and he has to say it," and I said, "You can't let him down by saying anything different." And I said, "We've been through it before. Yes, you spoke to me. Yes, I came there but as to what was discussed, what I said to you, what you said to me, what you told me, privilege, privilege, privilege. They cannot make you answer those questions." And I repeated it to him Friday, Saturday, Sunday, today and I'll repeat it at 9 o'clock in the morning tomorrow.

Horty and Ms Zaharoula Mokbel, which were meant to be handled by senior counsel, Mr Shirrefs, however he was interstate³⁷⁴⁶

- on [REDACTED] September 2007, Ms Gobbo was told by Mr Fox that she could attend on Messrs Milad and Horty Mokbel at the gaol if she thought it was necessary to keep them inside. Mr Fox said he would work out a cover story with Mr Flynn in case Mr Cooper found out she was there. Mr Cooper was under the impression that Ms Gobbo had nothing to do with the Mokbels and was fully supportive of he and Mr Thomas³⁷⁴⁷
- on 16 September 2007, Ms Gobbo discussed whether or not she should take the instructing solicitor, Mr Grigor, to any visit with Messrs Milad and Horty Mokbel, whether Mr Flynn wanted her to find out anything in particular from them, and her understanding that she could not represent these people³⁷⁴⁸
- on 13 September 2007, Ms Gobbo marked a fee in relation to Mr Milad Mokbel, indicating she had been briefed by Mr Grigor to 'advise, confer and settle charges'³⁷⁴⁹
- on 18 September 2007, Ms Gobbo reported that Mr Grigor had sent a letter with a plea offer to the OPP, which had been rejected³⁷⁵⁰
- on [REDACTED] September 2007, Ms Gobbo conducted professional visits with Mr Milad and Horty Mokbel.³⁷⁵¹ She later reported on the visits to Mr Fox, including that Mr Milad Mokbel had discussed his plea. She confirmed that she would not be involved in Milad's matter or in Mr Horty Mokbel's committal which was listed in November³⁷⁵²
- on [REDACTED] October 2007, Ms Gobbo reported to Mr Fox having spoken to Mr Milad Mokbel and passing on Mr Flynn's message that he would not deal with him in future [REDACTED]. She also told him that police intended to charge him with further drug charges. Ms Gobbo reported that Mr Milad Mokbel still intended to plead guilty to all his charges. Mr Flynn was informed³⁷⁵³
- in November 2007, issues arose when it was becoming apparent that [REDACTED] and Mr Bickley had made statements. Ms Gobbo's relationship with Mr Milad and Horty Mokbel had become more difficult and it was suggested by Mr Fox that she should go to the gaol and conduct a professional visit with them, so she could 'put things straight'³⁷⁵⁴
- later that month Ms Gobbo also reported concerns that further information about her involvement with Mr Cooper would come out during the committal of Mr Horty Mokbel, and as to matters that Mr

³⁷⁴⁶ Exhibit RC0281 ICR3838 (100), 12 September 2007, 1210, VPL.2000.0003.2796.
[REDACTED]

³⁷⁴⁸ Exhibit RC0281 ICR3838 (100), 16 September 2007, 1223, VPL.2000.0003.2809.
[REDACTED]

³⁷⁴⁹ Exhibit RC1568 Ms Nicola Gobbo fee book, 13 September 2007, 9, MIN.5000.7000.0103 @.0111.

³⁷⁵⁰ Exhibit RC0281 ICR3838 (100), 18 September 2007, 1226-1227, VPL.2000.0003.2812-.2813.

³⁷⁵¹ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 21 September 2007, 26, CNS.0001.0003.0037 @.0062.

³⁷⁵² Exhibit RC0281 ICR3838 (101), 21 September 2007, 1238-1239, VPL.2000.0003.2824-.2825.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Shirrefs intended to raise in that case. Messrs Ryan and Flynn were informed³⁷⁵⁵

- on [REDACTED] November 2007, Ms Gobbo received updates from Mr Fox about the committal of Mr Horthy Mokbel. She was told that in the view of Mr Flynn, nothing further to the information from Mr Milad Mokbel's committal had emerged. When Mr Cooper gave evidence he had claimed legal professional privilege when he was asked about obtaining legal advice, which came over as him trying to protect Ms Gobbo. Ms Gobbo was told that Mr Shirrefs argued that the answer was not privileged; the Magistrate had agreed but said it was irrelevant and insisted he move on.³⁷⁵⁶

Part 3 – Representation of Karam and Associated Matters

Background

2756. An analysis as to how Mr Karam's case may have been affected is contained in Volume 3. The following should be read in conjunction with that.
2757. Mr Rabie (Rob) Karam had been prosecuted a number of times in relation to drug trafficking and drug importation matters and was undergoing trial again in mid-2007.
2758. Ms Gobbo had appeared for Mr Karam on multiple occasions between 2005 and 2007 and acted as junior counsel in the 2007 trial.³⁷⁵⁷ Mr Karam was acquitted on these charges on 10 July 2007.³⁷⁵⁸ The SDU were aware of Ms Gobbo's representation of Mr Karam as she made references to it, including to the payment plan for her representation at his trial.³⁷⁵⁹ As well as purporting to act for Mr Karam in a professional capacity, Ms Gobbo maintained a social relationship with him.
2759. From the time of her registration by the SDU in September 2005, Ms Gobbo provided extensive information to Victoria Police about Mr Karam, including during his trial.³⁷⁶⁰ Amongst other matters, Ms Gobbo provided Victoria Police with information including:

[REDACTED]
[REDACTED]
[REDACTED]
³⁷⁵⁷ See Exhibit RC1568 Ms Nicola Gobbo fee book, MIN.5000.7000.0001 @.0092, .0095; Exhibit RC1568 Ms Nicola Gobbo fee book, MIN.5000.7000.0103 @.0106, .0107, .0108; Exhibit RC0281 ICR3838 (079), 18 May 2007, 5, VPL.2000.0002.2426.

³⁷⁵⁸ See for example, *DPP v Karam and others* [2013] VSC 133 at [18]; *Rob Karam v The Queen* [2015] VSCA 50 at [20].

³⁷⁵⁹ Exhibit RC0281 ICR3838 (008), 12 November 2005, 57, VPL.2000.0003.1643; Exhibit RC0281 ICR3838 (016), 25 January 2006, 133, VPL.2000.0003.1719; Exhibit RC0281 ICR3838 (043), 29 August 2006, 409, VPL.2000.0003.1995; Exhibit RC0281 ICR3838 (080), 25 May 2007, 858, VPL.2000.0003.2444; Exhibit RC0281 ICR3838 (081), 31 May 2007, 870, VPL.2000.0003.2456; Exhibit RC0284 SML3838, 14 June 2007, 113, VPL.2000.0001.9447 @.9559.

³⁷⁶⁰ See for example, Exhibit RC0281 ICR3838 (002), 7 October 2005, VPL.2000.0003.1598; Exhibit RC0283 Information Report SID277, 7 October 2005, VPL.2000.0003.8408.

- Mr Karam's involvement with other drug importations, and drug related offending³⁷⁶¹
- Mr Karam's belief or awareness of police investigation or surveillance³⁷⁶²
- his associates, and his association with others like the Mokbels and Mr Cooper³⁷⁶³
- numerous mobile phone numbers used by Mr Karam between 2005 and 2008, including contacts she had copied from his phone when he had left it charging in her chambers.³⁷⁶⁴

2760. In Ms Gobbo's early days of informing, given his association with Mr Cooper and the Mokbels, Mr Karam was considered a target of Operation Posse. This is reflected in extensive references in SDU records.³⁷⁶⁵ In mid-January 2006, Mr O'Brien had advised the Purana management group of the opportunity to install surveillance into the premises of Karam and to [REDACTED]. At that time, Mr Overland determined that intelligence collecting should continue before any additional resourcing was provided.³⁷⁶⁶

2761. In the weeks following, Mr O'Brien was provided with further information about Mr Karam sourced from Ms Gobbo, including his concern that a container in which illegally imported drugs were hidden might be stolen before it went through Customs checks, and that 'the Feds' had been 'sniffing around' the container yard where his last importation had entered.³⁷⁶⁷ In late January 2006, at a weekly briefing of the Purana management group, there was discussion of intelligence relating to Mr Karam arranging a large importation. There was also discussion at this meeting of the AFP having surveillance on a target which had possible security implications, such that Mr Overland was to seek liaison with the AFP at a high level.³⁷⁶⁸

³⁷⁶¹ Exhibit RC0284 SML3838, 17 January 2006, 12, VPL.2000.0001.9447 @.9458; Exhibit RC0284 SML3838, 25 February 2006, 16, VPL.2000.0001.9447 @.9462; Exhibit RC0284 SML3838, 7 March 2006, 18, VPL.2000.0001.9447 @.9464; Exhibit RC0284 SML3838, 9 March 2006, 19, VPL.2000.0001.9447 @.9465; Exhibit RC0284 SML3838, 14 March 2006, 20, VPL.2000.0001.9447 @.9466; Exhibit RC0284 SML3838, 10 April 2006, 25, VPL.2000.0001.9447 @.9471; Exhibit RC0284 SML3838, 13 April 2006, 26, VPL.2000.0001.9447 @.9472; Exhibit RC0284 SML3838, 23 May 2006, 32, VPL.2000.0001.9447 @.9478; Exhibit RC0284 SML3838, 28 July 2006, 42, VPL.2000.0001.9447 @.9488; Exhibit RC0284 SML3838, 3 August 2006, 42, VPL.2000.0001.9447 @.9488; Exhibit RC0284 SML3838, 4 August 2006, 42, VPL.2000.0001.9447 @.9488; Exhibit RC0284 SML3838, 14 August 2006, 44, VPL.2000.0001.9447 @.9490.

³⁷⁶² Exhibit RC0284 SML3838, 7 December 2005, 8, VPL.2000.0001.9447 @.9454; Exhibit RC0284 SML3838, 13 December 2005, 9, VPL.2000.0001.9447 @.9455.

³⁷⁶³ See, e.g. Exhibit RC0281 ICR3838 (006), 17-18 October 2005, 33-34, VPL.2000.0003.1619-.1620; Exhibit RC0281 ICR3838 (011), 7 December 2005, 75-76, VPL.2000.0003.1661-.1662; Exhibit RC0281 ICR3838 (013), 22 December 2005, 94-96, VPL.2000.0003.1680-.1682; Exhibit RC0281 ICR3838 (016), 15 January 2006, 123, VPL.2000.0003.1709.

³⁷⁶⁴ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

³⁷⁶⁵ See generally, Exhibit RC0281 ICR3838; Exhibit RC0284, SML3838.

³⁷⁶⁶ Exhibit RC0933 Mr James (Jim) O'Brien diary, 16 January 2006; Exhibit RC0817 Mr John (Jack) Blayney diary, 16 January 2006, 3-4, VPL.0005.0156.0001 @.0003-.0004; Exhibit RC0933 Mr James (Jim) O'Brien diary, 17 January 2006,

³⁷⁶⁷ Exhibit RC0933 Mr James (Jim) O'Brien diary, 19 January 2006, 24 January 2006, 25 January 2006, 26 January 2006, 28 January 2006

³⁷⁶⁸ Exhibit RC0933 Mr James (Jim) O'Brien diary, 30 January 2006, Exhibit RC0109 Mr Terry Purton diary, 30 January 2006,

2762. Ms Gobbo continued to supply intelligence about Mr Karam which was disseminated to Mr O'Brien, including in relation to his involvement with an importation, and also in connection to activities with Mr Tony Mokbel and Mr Cooper.³⁷⁶⁹ Later in March 2006, concern arose that Ms Gobbo's phone was being intercepted by the AFP. It was thought probable that Ms Gobbo had been heard speaking with Mr Karam on intercepted phones. Mr Overland was engaged to enquire with the AFP as to whether this was the case.³⁷⁷⁰
2763. In order that Ms Gobbo not be compromised, particularly following the arrest of Mr Milad Mokbel and others in Operation Posse, the SDU were careful in determining what intelligence they disseminated to investigators from Ms Gobbo, and also when it was disseminated. The lack of action in relation to her intelligence was an ongoing source of frustration for Ms Gobbo.³⁷⁷¹

Gobbo Provides Information

2764. In 2007, a number of agencies, including the AFP, the Australian Customs Service and the Drug Taskforce within Victoria Police, were involved in investigations relating to Mr Karam and associates of his including Messrs John Higgs, Pasquale Barbaro, Carmelo Falanga and Saverio Zirilli.³⁷⁷²
2765. On 5 June 2007, during Mr Karam's trial, Ms Gobbo photocopied documents provided to her for safekeeping by Mr Karam, returned the originals and supplied the copies to the police. At a meeting later that night Ms Gobbo provided the photocopied documents to handlers, Messrs Anderson and Fox, and told them that they 'relate to shipping containers being imported by [an associate of Mr Karam]'. She assisted the police in translating one of the documents, a bill of lading, from Italian into English. She described the bill of lading as referring to the importation of containers of tomatoes from Italy and noted that it contained shipment details such as the ship name, container number, port of origin and departure date.³⁷⁷³ In fact, the tomato tins contained what turned out to be the world's largest seizure of ecstasy at the time.
2766. During that meeting Ms Gobbo nominated various people that she could 'get to' in order to supply intelligence, including Mick Gatto and Rob Karam.³⁷⁷⁴ Mr Anderson indicated that they had an interest in all those people at some stage, and that they knew Ms Gobbo was communicating

³⁷⁶⁹ See for example, Exhibit RC0284 SML3838, 6 February 2006, 13, VPL.2000.0001.9447 @.9459; Exhibit RC0284 SML3838, 8 February 2006, 13-14, VPL.2000.0001.9447 @.9459-9460; Exhibit RC0284 SML3838, 16 February 2006, 14, VPL.2000.0001.9447 @.9460; Exhibit RC0284 SML3838, 18 February 2006, 16, VPL.2000.0001.9447 @.9462; Exhibit RC0284 SML3838, 25 February 2006, 16, VPL.2000.0001.9447 @.9462; Exhibit RC0284 SML3838, 27 February 2006, 17, VPL.2000.0001.9447 @.9463; Exhibit RC0284 SML3838, 7 March 2006, 18, VPL.2000.0001.9447 @.9464; Exhibit RC0284 SML3838, 9 March 2006, 19, VPL.2000.0001.9447 @.9465; Exhibit RC0284 SML3838, 13 March 2006, 19-20, VPL.2000.0001.9447 @.9465-9466; Exhibit RC0284 SML3838, 14 March 2006, 20, VPL.2000.0001.9447 @.9466.

³⁷⁷⁰ Exhibit RC0284 SML3838, 25 March 2006, 22, VPL.2000.0001.9447 @.9468.

³⁷⁷¹ Exhibit RC0284 SML3838, 5 March 2007, 93-94, VPL.2000.0001.9447 @.9539.

³⁷⁷² Exhibit RC1189 Statement of Detective Inspector Steven Smith, undated, 2-3 [9], VPL.0014.0063.0001 @.0002-.0003.

³⁷⁷³ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

³⁷⁷⁴ Exhibit RC0281 ICR3838 (082), 5 June 2006, 876-882, VPL.2000.0003.2462-.2468.

with them, but she was told to do nothing at the moment, but they would be 'coming onto all of this very soon'.³⁷⁷⁵

2767. During this time, a handler at the SDU, Mr Green, was given higher duties in the Drug Taskforce. The SDU commenced to verbally disseminate information received from Ms Gobbo directly to him. It appears that no information reports were produced in relation to the intelligence provided by Ms Gobbo.
2768. Mr Green told the officer in charge of the Drug Taskforce, Inspector Steve Smith, that he had been provided with human source information relating to a container arriving into the Port of Melbourne.³⁷⁷⁶ Mr Smith recalls being told around the same time that Ms Gobbo was the source of the information. Although he has no recollection of it, he cannot think who else might have told him other than Mr Green.³⁷⁷⁷
2769. Mr Smith said he was aware that Ms Gobbo was a criminal barrister who had a practice defending people charged with serious drug activity, however he had not had any direct dealings with her. Mr Smith said he was a little bit surprised when he was told this. Mr Smith said he would have assumed that Mr Green's information came from the SDU, but that it did not occur to him that Ms Gobbo might be a human source dealing with the SDU. He said he did not turn his mind to whether Ms Gobbo was a registered human source, whether she had an ongoing relationship with police, or whether this was a 'one-off' provision of information. He said it was his role to ensure that the information was passed on to the appropriate agency for investigation.³⁷⁷⁸

Dissemination of Information Provided by Gobbo

2770. A dilemma arose as to how Ms Gobbo's information might be used without compromising Ms Gobbo's status as a human source. There existed a level of distrust by Victoria Police in relation to the AFP, and Victoria Police would not provide this information directly to the AFP. A strategy was devised such that the information was provided to the Australian Customs Service, which the evidence indicates led the AFP to believing they had discovered the tomato tins container of their own accord.
2771. The SDU were concerned that should the documentation or intelligence be disseminated to the AFP, it could not be controlled and Ms Gobbo might be compromised.³⁷⁷⁹ On 15 June 2007, one of Ms Gobbo's handlers, Mr Anderson, explained to Ms Gobbo that the SDU may 'have worked out a way to deal with this container without compromise to [Ms Gobbo]'.³⁷⁸⁰

³⁷⁷⁵ Exhibit RC0303 Transcript of meeting between Nicola Gobbo, Fox and Anderson, 398-411 VPL.0005.0137.0351 @.0748-0761.

³⁷⁷⁶ Exhibit RC1189 Statement of Detective Inspector Steven Smith, undated, 3 [10] – [11], VPL.0014.0063.0001 @.0003.

³⁷⁷⁷ Exhibit RC1189 Statement of Detective Inspector Steven Smith, undated, [12], VPL.0014.0063.0001 @.0003.

³⁷⁷⁸ Exhibit RC1189 Statement of Detective Inspector Steven Smith, undated, 3 [14], VPL.0014.0063.0001 @.0003; Transcript of Detective Inspector Steven Smith, 12 February 2020, 13902-13903, TRN.2020.02.12.01.P.

³⁷⁷⁹ Exhibit RC0284 SML3838, 14 June 2006, 113, VPL.2000.0001.9447 @.9559.

³⁷⁸⁰ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

2772. On 15, 17 and 18 June, the SDU tasked Ms Gobbo to obtain additional information in relation to the shipment.³⁷⁸¹
2773. On 19 and 21 June 2007, Messrs Sandy White and Green met with Mr Tony Stevens from Customs, to discuss the import paperwork including the bill of lading. They devised a 'strategy' to conceal Ms Gobbo's involvement from the AFP, by giving the impression that Customs had identified the container 'by [their] own means'.³⁷⁸²
2774. Mr Sandy White's diary note of the meeting on 19 June 2007 includes:³⁷⁸³
- *Containers with tomatoes files on MSC ships – suspicion*
 - *Found dumped container – Donnybrook, from Italy – had tomatoes*
 - *Discussed import paperwork. Bill of lading, manifest*
 - *Consignee would get 'arrival notice'*
 - *If not expecting cont. could notify Customs, Freight Fwd, or Customs Broker*
 - *Have had 'innocent agent consignees'*
 - *TS advised VicPol has 'source' and may be able to get cont. no. but not sure if worth risk to HS*
2775. Mr Sandy White then recorded updating Mr Biggin.
2776. Mr Sandy White's diary entry for the meeting on 21 June 2007 reads:³⁷⁸⁴
- *Discussed strategy re hide HS involvement in container discovery*
 - *Agreed:*
 - *AFP not to be told HS involved (poss leak in Melb office)*
 - *Pref. that AFP believe Customs id. container existence via good work*
 - *Customs have numerous alert flags which id. Container*
 - *Provided cont. no. freight fwd & consignee details*
 - *Will not be passed on*
 - *Evidentiary issues*
 - *Likelihood T will dump cont. HIGH*
2777. That day police informed Ms Gobbo that Customs had identified the container and police would not be tasking her with further questions to ask Mr Karam, and instead preferred that she take a passive role and report

³⁷⁸¹ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting; RC0281, ICR3838, 15 June 2007, 898-899, 17 June 2007, 911, 18 June 2007, 913

³⁷⁸² See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

³⁷⁸³ Exhibit RC0292 Mr Sandy White diary, 19 June 2007, 63, VPL.0100.0096.0621 @.0683.

³⁷⁸⁴ Exhibit RC0292 Mr Sandy White diary, 21 June 2007, 66, VPL.0100.0096.0621 @.0686.

unprompted information she received, which she did.³⁷⁸⁵ The SDU continued to disseminate information to Mr Green which would have been of assistance in obtaining surveillance of Mr Karam and his associates, and also advised as to his concerns and plans in relation to the shipment.³⁷⁸⁶ It appears that the information provided by Ms Gobbo, and particularly the bill of lading, was instrumental in the seizure of the container on 28 June 2007.

2778. On 28 June 2007, the tomato tins shipment arrived in Melbourne. Ms Gobbo informed her handler, Mr Fox, that Mr Karam had told her that he and Mr Higgs were going to meet 'the Italian boys from Griffith' in relation to the tomato tins container at the Pacific International Apartments at which they were booked to stay 'for the week'. That information was then 'verbally disseminated' to Mr Green. Days later, the room at the Pacific International Apartments, in which Messrs Barbaro and Zirilli (both from Griffith) were staying, was the subject of an AFP listening device warrant. Listening devices were installed in the room from 2 July 2007 and captured incriminating conversations and the identities of further related accused.³⁷⁸⁷

2779. That day, Messrs Sandy White and Green met with Mr Stevens again in relation to the container strategy. Mr Sandy White's diary note of this meeting includes:³⁷⁸⁸

Container will be pulled off ship & taken straight to x-ray. Computer records will not show same.

Balance of risk of person monitoring computer compared to usual inspection.

Discussed scenarios re post container, being discovered, dumped or arrested.

Customs can assist re misinformation.

Further Tensions with the AFP

2780. Around 20 June 2007, tensions between the AFP and Victoria Police were growing. Mr Smith had attended a meeting involving the ACC, the AFP, the ACS and Victoria Police, and it is apparent from entries in a number of members' diaries that there was discontent about comments made by the representative of the AFP during the meeting.³⁷⁸⁹

2781. On the night of 28 June 2007, the container was searched and the drugs were discovered. Mr Green reported to Mr Sandy White that Mr Blayney was to attend a meeting involving the AFP in relation to the container and there was concern that he not disclose the existence of a human source in the operation. It is apparent Mr Sandy White then spoke with his direct superior, Mr Hardie, who in turn spoke with his direct superior, Mr Biggin,

³⁷⁸⁵ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting., RC0281, ICR3838, 21 June 2007, 921

³⁷⁸⁶ RC0281, ICR3838, 17 June 2007, 906, 908, 911, 21 June 2007, 925, 25 June 2007, 935, 27 June 2007, 944

³⁷⁸⁷ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

³⁷⁸⁸ Exhibit RC0292 Mr Sandy White diary, 28 June 2007, 76, VPL.0100.0096.0621 @.0696.

³⁷⁸⁹ RC1192 Mr Steven Smith diary, 20-21 June 2007, 7-8, RCMP.0126.0001.0007 @.0007-.0008; Exhibit RC0292 Mr Sandy White diary, 20 June 2007, 65, VPL.0100.0096.0621 @.0685; Exhibit RC0817 Mr John (Jack) Blayney diary, 21 June 2007, 156, VPL.0005.0241.0385 @.0427.

who then spoke with Mr Blayney about the need to protect the human source.³⁷⁹⁰

Ongoing Tasking of Gobbo

2782. From 29 June 2007, within a day of the shipment being intercepted, Ms Gobbo was tasked to ascertain whether Mr Karam was suspicious or concerned about police involvement, and to provide immediate updates in relation to Mr Karam's comments and movements on an ongoing basis, which she did.³⁷⁹¹
2783. On 1 July 2007, Ms Gobbo was told that the police seizure would be the biggest in the world. She reported that she thought that Mr Karam's jury would retire to consider their verdict the following Thursday.³⁷⁹² A few days later during a meeting with the SDU there was discussion about the AFP thinking they were responsible for locating the container, and how Customs had been steered in the right direction.³⁷⁹³

Awareness of Gobbo's Conflicts

2784. On 3 July 2007 a meeting took place between Ms Gobbo and Messrs Sandy White and Fox.
2785. During that meeting the following exchange occurred in relation to her anticipation that she would knowingly act, in conflict, for Mr Karam and his associates when they were arrested:³⁷⁹⁴

MS GOBBO: Just - you know what I thought when I - the last two - two weeks I have just sat down and gone, "What the fuck is wrong with me?" I can't - what the fuck is wrong with me? Sure, it's all fine and good to be responsible for the world's greatest, biggest seizure of eccies in - in your lifetime. That's all great, fantastic. I said to Fox the other night, "I hope Sandy is getting some credit for this because he bloody well should."

MR SANDY WHITE: None of us will get credit.

MS GOBBO: No, but that's what I'm saying. It's wrong, you should get it.

MR SANDY WHITE: No.

MS GOBBO: But - but this is - this is just going to prolong my - my life - my - so my nightmare of my life. Because assuming there's some evidence, assuming that these blokes get charged - - -

³⁷⁹⁰ Exhibit RC0292 Mr Sandy White diary, 28 June 2007, 76, VPL.0100.0096.0621 @.0696; Exhibit RC0817 Mr John (Jack) Blayney diary, 29 June 2007, 51, VPL.0005.0241.0385 @.0435; Exhibit RC0292 Mr Sandy White diary, 29 June 2007, 77, VPL.0100.0096.0621 @.0697.

³⁷⁹¹ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

³⁷⁹² Exhibit RC0281 ICR3838 (087), 1 July 2007, 964, VPL.2000.0003.2550.

³⁷⁹³ Exhibit RC0281 ICR3838 (087), 3 July 2007, 973, VPL.2000.0003.2559.

³⁷⁹⁴ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 37, VPL.0005.0136.0001 @.0037.

MR SANDY WHITE: Yep.

MS GOBBO: - - - I'm going to be acting for them. And I can hardly say I've got a conflict. "What's your conflict?" "Cause I told the police about it." I mean - - -

Mr Sandy White referred to the care which had been taken in relation to the use of Ms Gobbo's information, and that only Mr Green, and his inspector, Mr Smith, were aware of Ms Gobbo's role: ³⁷⁹⁵

MR SANDY WHITE: So if you need to know that, Fox will tell you that. I told you - for quite some time now you've told us about - this is before the container.

MS GOBBO: Yep. I think for six months if you include Horthy's one.

MR SANDY WHITE: Yeah. And consistently we've been not releasing that information. A couple of bits we did release. Bear in mind, all this container stuff

MS GOBBO: Mm.

MR SANDY WHITE: Now, I said I wouldn't be unprofessional but I don't have any confidence in the feds - - -

MS GOBBO: No, not at all.

MR SANDY WHITE: - - - full stop. So we're being very, very careful how we distribute that information and some of it we just haven't distributed outside of our office full stop. We decided in relation to - one, because of the size of it and because of our distance from - from the Cooper event - although we're back there now - and the fact that Green is down at the drug squad, I decided in confidence that we can manage the information for them.

MS GOBBO: Mm.

MR SANDY WHITE: Now, Green - - -

MS GOBBO: It's good that Green - Green had the whole - he had the whole first few months of me - - -

MR SANDY WHITE: Yeah.

MS GOBBO: - - - talking about Rob. He knew about it. And he knows about containers.

MR SANDY WHITE: Yeah.

MS GOBBO: Yeah.

MR SANDY WHITE: Now, what you have to appreciate is - and you've probably had decent exposure to it but it's very hard in this department to keep a secret.

³⁷⁹⁵ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 46-50, VPL.0005.0136.0001 @.0046-0050.

MS GOBBO: *I know, I know.*

MR SANDY WHITE: *Because detectives have to report to managers, who report to superintendents and where no-one tells you - - -*

MS GOBBO: *No. And the drug squad - - -*

MR SANDY WHITE: *- - - what's going on.*

MS GOBBO: *- - - has a big problem. It has a huge problem, the gigantic*

MR SANDY WHITE: *Well, it's a seven person strong squad. It's very hard. And, sure, there are problems*

MS GOBBO: *They've still got a current problem. The - while is still in one of those crews you've got no hope of keeping anything secret.*

MR SANDY WHITE: *Yep, yeah. Well, the whole building is like that.*

MS GOBBO: *Yeah, true.*

MR SANDY WHITE: *So I am absolutely paranoid about passing on that information because I know what will happen and I know the processes. And because it then has to go to the AFP it gets even worse because they're just a media-dripping machine. They exist not to catch crooks primarily, that's a secondary function. Their primary function is to justify their own existence - - -*

MS GOBBO: *Mm.*

MR SANDY WHITE: *- - - and they do that through the media and they do that through puffing themselves up. And we'll see the sure, whether there's or not.*

MS GOBBO: *Mm.*

MR SANDY WHITE: *Just I've already put things in place for that. So I've gone to great lengths to make sure that **nobody knows even the existence of a source of information in this job outside of our office and Green and his inspector (Mr Steven Smith)**. Now, he knows there's some sort of talk but he's got no idea where it's coming from. And of course they're focusing on Higgs.*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *Yeah. So - - -*

MS GOBBO: *But - - -*

MR SANDY WHITE: *.....*

MS GOBBO: *This would've been music to Green's ears 'cause I remember his absolute frustration and grief*

back in - when I - I remember one morning I was talking till 2 o'clock in the morning about Cooper. It was about - around the time Cooper probably would've been and I - I must've seen Karam at the same time or the same night. I distinctly remember standing in Spring Street on the phone, 2 o'clock in the morning, talking to Green, saying, "He's talking about a container with 1000 kilos of something in it," - - -

MR SANDY WHITE: Mm.

MS GOBBO: - - - rah rah rah, "And this is his system." And - and I took great comfort in the fact that Green knew 'cause of his previous experience. He knew exactly what I was talking about.

2786. There was discussion about compliance with policy and procedure in relation to dealings with Ms Gobbo:³⁷⁹⁶

MR SANDY WHITE: See - see it for what it is. It's not a trust issue, all right.

MS GOBBO: Mm'hm.

MR SANDY WHITE: Never, ever been a trust issue with you.

MS GOBBO: No, come on. I only got to a substantial level of trust, Sandy.

MR SANDY WHITE: Yep.

MS GOBBO: Yeah.

MR SANDY WHITE: For quite some time we haven't had any problems with that. All right, yes, I do limit information coming back here.

MS GOBBO: Mm.

MR SANDY WHITE: That's because that's just good practice. From a professional point of view it's just good practice. Now, I've broken the rules a little bit in relation to you and as time goes by - - -

MS GOBBO: So - no offence but so you should.

MR SANDY WHITE: Well, that's from your point of view. All right.

MS GOBBO: Yeah, but - no.

MR SANDY WHITE: That's your perspective and I understand that. That's what's important to you. What's important to me is that we try and do things in a particular way.

MS GOBBO: I am not - - -

³⁷⁹⁶ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 58-61, VPL.0005.0136.0001 @.0058-0061.

MR SANDY WHITE: All right.

MS GOBBO: I - - -

MR SANDY WHITE: We've shown a little bit of flexibility.

MS GOBBO: Never - a little bit. I never - - -

MR SANDY WHITE: You've got no idea. You've got - - -

MS GOBBO: Come on, Sandy. I am never gunna sit in the rule book of - of - or the operational handbook or whatever guidelines you've got. I'm never going to. I never was from the beginning, as much as you tried to make me, and I'm never going to now so you can be a bit flexible.

MR SANDY WHITE: Well, you're not the only one in the position you're in. You're not the only one I've come across - - -

MS GOBBO: Mm.

MR SANDY WHITE: - - - in the position you're in. Yes, you are unique.

MS GOBBO: I have a feeling I'm probably the only barrister.

MR SANDY WHITE: I - I can't actually confirm or deny that.

MS GOBBO: You don't have to, you just have. Go on.

MR SANDY WHITE: I - - -

MR FOX: I don't know how you can say that 'cause you said that to me the other night. I don't know how you can say that.

MR SANDY WHITE:

MS GOBBO: I saw his face.

MR FOX: No.

MS GOBBO: on the phone.

MR FOX: Like, no-one else knows what you're doing so how do you know what they're doing?

MS GOBBO: 'Cause there's no other barristers that would be this close to everybody, not in my league. I'm happy to say that to you and pretty confident of it.

2787. There was reference to Ms Gobbo's situation when first dealing with the SDU, how clients like Mr Karam came to provide her with information, and how the SDU had tried to avoid actively tasking Ms Gobbo in relation to Mr Karam:³⁷⁹⁷

³⁷⁹⁷ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 60-66, VPL.0005.0136.0001 @.0060-0066.

MS GOBBO: *Let's go back to 2005. Who was close to me before I started talking to you? Other than Tony there was nobody.*

MR SANDY WHITE: *Was there?*

MS GOBBO: *Oh, sorry, I beg your pardon. Other than Cooper, who took it upon himself to talk to me. I was out of the circle, Sandy. I was not - I hadn't seen the Hortys or the Milads or - or Rob, for that matter. None of those people were people that I ever saw socially or - - -*

MR SANDY WHITE: *Didn't you - - -*

MS GOBBO: *I didn't have that.*

MR SANDY WHITE: *You represented Rob for the trial that he beat, didn't you?*

MS GOBBO: *No.*

MR SANDY WHITE: *Who did that?*

MS GOBBO: *David Grace.*

MR SANDY WHITE: *You weren't involved in that at all? Nuh.*

MS GOBBO: *No. I did the bail applications for a number of co-accused, the committal for 'em but I never did the trial. But after, from September 05, other than Tony who was a fixture in my life that I couldn't get rid of – and I still seem to not be able to get rid of – everybody else I sought to get close to. And part of being close to them is as simple as just being available, it is really as simple as that. You don't have to be - like, imagine if I - if I was sleeping with any one of these blokes. Just take your pick, any one of 'em. Horthy before he got locked up*

MR SANDY WHITE: *Mm.*

MS GOBBO: *And I don't think - I don't have tickets on myself but I don't believe it'd be that difficult to get.*

MR SANDY WHITE: *Mm.*

MS GOBBO: *I think I'd have to initiate it with him - - -*

MR SANDY WHITE: *Yep.*

MS GOBBO: *- - - which I wouldn't do ordinarily but - unless I get smashed but even then I probably wouldn't. But imagine how much - what would be flowing if I was sleeping with him. All I'm saying is it's not that difficult to get close to them without - I'm sure there's a bit of cock-teasing involved but without having to go that next step.*

MR SANDY WHITE: *Mm.*

MS GOBBO: *But it's really as - as simple as just being around. You know, 8 o'clock on a Sunday night, "Come and meet us for dinner." Now, there was a legitimate purpose to it and there - and there truly was, I had to give him a copy of his closing address.*

MR SANDY WHITE: *Mm, yep.*

MS GOBBO: *And we sat there and we did look at it for about an hour. Sergi was there, we talked about his, rah rah rah. And there is - there is always a lot of talk about legitimate things that they would be asking a lawyer, you know, elements of the offence.*

MR SANDY WHITE: *Mm.*

MS GOBBO: *- - - "What about this. What's the judge going to say?" That sort of stuff.*

MR SANDY WHITE: *Mm.*

MS GOBBO: *But because you're there and they're used to you being there and they talk in front of you. And it's just a case of - it is really is as simple as listening to what other people are saying while you're carrying on a conversation with someone else and appear to not be listening. Not that difficult. Sometimes I wish I had a recording device but most of the time it's not necessary.*

MR SANDY WHITE: *Mm.*

MS GOBBO: *And I - I've got - I guess what I'm really - in answer to your question, why allow these people to be so close, well, why did I allow Cooper to get close? For obvious reasons.*

MR SANDY WHITE: *Yeah, but Cooper was something we wanted.*

MS GOBBO: *Yeah.*

MR SANDY WHITE: *Right.*

MS GOBBO: *Well - - -*

MR SANDY WHITE: *And - - -*

MS GOBBO: *Mm.*

MR SANDY WHITE: *But the thing with Rob is we've been trying to steer clear of that for some time - - -*

MS GOBBO: *And I haven't actively pursued it.*

MR SANDY WHITE: *- - - and you just - you're volunteering to - - -*

MS GOBBO: *Yep - I - I truly haven't. I mean, I've knocked back trips to Queensland with him, trips to Sydney with him. I've said - quite a lot of nights*

when I've said, "Nuh, can't be bothered coming out, can't be bothered hanging around."

MR SANDY WHITE: Mm.

MS GOBBO: I guess obviously this trial has taken a long time because it's starting to make me tense and that's a long period of intense - - -

MR SANDY WHITE: Yep.

MS GOBBO: - - - contact with somebody - - -

MR FOX: Every day.

MS GOBBO: - - - every day. I've never had that sort of level of contact with him before.

MR SANDY WHITE: Mm.

MS GOBBO: And couple that with Mannella because all the stuff that's happening with Mannella, quite - I mean, I was acting for Mannella before now.

MR SANDY WHITE: Mm.

MS GOBBO: So - so you backtrack another month before that. I don't know.

MR SANDY WHITE: Well - - -

MS GOBBO: I still - what I would say is it would be unprofessional and unethical if I were appearing for him in court and I was sleeping with him - - -

MR SANDY WHITE: Yep.

MS GOBBO: - - - but I'm not. Now, what's unethical or unprofessional about - other than what he tells me, I'm not doing anything with him. If the feds perceive it a different way, not my problem.

MR SANDY WHITE: Yeah.

2788. There was further discussion as to her representing Mr Karam and his associates should they be arrested and not being able to tell clients about the reality of her conflict with them:³⁷⁹⁸

MR SANDY WHITE: If he gets arrested - - -

MS GOBBO: Mm.

MR SANDY WHITE: - - - is he going to call for you straightaway?

MS GOBBO: Mm'hm.

MR SANDY WHITE: If Higgs gets arrested is he going to call for you as well?

³⁷⁹⁸ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 111-113, VPL.0005.0136.0001 @.0111-0113.

- MS GOBBO: Probably, yeah.*
- MR SANDY WHITE: Who else? Would Sergi?*
- MS GOBBO: Yep.*
- MR SANDY WHITE: You can't represent all these people.*
- MS GOBBO: I know. Baldy Rob, definitely call me. Crazy, definitely call me.*
- MR SANDY WHITE: So how do we get around that?*
- MS GOBBO: I don't know. This has been the age-old problem. Been a problem for two years.*
- MR SANDY WHITE: Yeah. Well, I would say you're pretty good 'cause you know the*
- MS GOBBO: Yeah, but that's half the problem and it's – and it's still a problem now because some people I can't explain I'm conflicted because if I say I'm conflicted, what's the conflict? I mean, you know, like Milad. I mean, Christ, that custody centre conference I had with him on Monday morning. I mean, I can't - he - he's sharp enough to say, "I know and Alex Lewenberg explained it to me and you've explained it to me before that if I challenge things that Cooper says, that you can't act for me because you acted for him."*
- MR SANDY WHITE: Mm'hm.*
- MS GOBBO: "And I know that. And it's like" - you know, "In my other committal, in my threat to kill committal Stephen Shirrefs acted for me." He said, "Now, you tell me, are you in the same position? 'Cause Stephen Shirrefs acted for me but he had" - "Had some friendship with a female witness in that case so he couldn't cross-examine that witness and another barrister came in and cross-examined that witness. So it's the same thing here. I know that you can't cross-examine Cooper but it doesn't mean you can't act for me." Like, he's right that on the surface that's the only conflict that anyone knows of but, fuck, I've got a massive conflict with all these people but I can't ever tell them. I mean, look. Look at my conversations with Tony that have been recorded by the AFP, no doubt. Live, they're probably listening. I can't tell Tony all I - I had so many conflicts, it's beyond a joke with him.*
- MR SANDY WHITE: Mm.*
- MS GOBBO: That causes me stress at night-time because I worry about this stuff all the time.*

MR SANDY WHITE: Let's just try and deal with one at a time.

2789. Ms Gobbo had difficulty accepting that she could tell Mr Karam that she would not act for reasons including his participation in the importation during the 2007 she was representing him in, that the evidence would include surveillance and telephone intercepts in which she would feature, and that the AFP might consider her a suspect.³⁷⁹⁹

MR SANDY WHITE: Did you - can you - can you say this.

MS GOBBO: Yep, go on.

MR SANDY WHITE: "No, Rob, I'm not representing you. I've had a gutful. Look at the position you've put me in. I represent you for your trial and during the course of your trial you're organising an import" talk about your particular position. "And I'm all over the phone and I'm having meetings with you and I've got the feds on my doorstep wanting to know whether I am or am not involved in a conspiracy to import." I don't want to go down that path of actually having them talk to you about that but there's no reason why you can't say to Rob, "You've put me in this unbelievable position where my whole reputation, integrity" - "And integrity has been questioned."

MS GOBBO: But it will look - - -

MR SANDY WHITE: "You can fuck off."

MS GOBBO: It will look suspicious.

MR SANDY WHITE: But it will be - it - it would be - - -

MS GOBBO: At least if I - - -

MS GOBBO: No.

MR SANDY WHITE: What do you mean, "No"? You - you are all over the phones.

MS GOBBO:

MR SANDY WHITE: Clearly, you've got to be over the phones. You've got to be in surveillance photos. And - - -

MS GOBBO: Go on.

MR SANDY WHITE: I don't talk to feds. Like - - -

MS GOBBO: Go on, say it. There was something you were about to say. Say it.

MR SANDY WHITE: Yeah. If they think you were involved, I would go - - -

³⁷⁹⁹ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 1145-117 VPL.0005.0136.0001 @.0115-0117.

MS GOBBO: Does that mean I should expect a search warrant?

MR SANDY WHITE: I expect it's something else that we're going to have to deal with. Because if they actually think - genuinely believe that - - -

MS GOBBO: My name will be on the warrant.

MR SANDY WHITE: - - - then they should be coming to talk to you. Yeah. And for - for us to step in and say, "No, you can't do that," would cause some heartache. But then you getting searched and treated like a bloody offender would cause some heartache too so - - -

MS GOBBO: Let alone everyone knowing about that.

MR SANDY WHITE: Yeah. So that is a problem we're going to have to deal with and to be honest I don't know if we can work around it. Just try and deal with one thing at a time.

2790. There was an appreciation that there were already multiple people who had not had a completely unbiased, uncompromised defence:³⁸⁰⁰

MS GOBBO: I would entertain manoeuvring myself to a position of not acting for him actually in a committal or a trial if he was charged - or a bail application, for that matter - - -

MR SANDY WHITE: Mm'hm.

MS GOBBO: - - - on the basis that, I mean, I can say to him, for example, "Look, the federal police are going to object to me appearing because I'm the subject of an investigation now thanks to you."

MR SANDY WHITE: O.K. Well, that - - -

MS GOBBO: Now, that's - - -

MR SANDY WHITE: Is that a workable solution?

MS GOBBO: That is workable to the extent of not appearing in court for him but it's not a workable solution from the point of view of never speaking to him again.

MR SANDY WHITE: Yeah, O.K. You have to decide what it is you want, whether you - you want to keep talking to him or not.

MS GOBBO: Sandy, I'm happy to not speak to him but I'm going to do it if it's going to be at my expense. If there's the slightest risk that he will be suspicious of me then I wouldn't do it. I'm happy to endure - honestly, I'm happy to endure

³⁸⁰⁰ Exhibit RC0764 Transcript of meeting between Nicola Gobbo, Sandy White and Fox, 3 July 2007, 120-122, VPL.0005.0136.0001 @.0120-0122.

anything the feds dish out to me so long as he doesn't get suspicious.

MR SANDY WHITE: *All right. It's really important for all of us that you don't represent anyone.*

MS GOBBO: *Mm.*

MR SANDY WHITE: *I'd hate to think that ultimately a conviction could be overturned because there was an allegation or suggestion or a bloody inquiry in relation to whether he got completely unbiased uncompromised defence.*

MS GOBBO: *Who's ever going to know about that?*

MR SANDY WHITE: *Well - - -*

MS GOBBO: *And there's already 20 people in that category.*

MR SANDY WHITE: *I know, I know.*

MS GOBBO: *Sorry.*

MR SANDY WHITE: *Don't think we haven't thought about this day in and day out.*

MS GOBBO: *I do.*

MR SANDY WHITE: *It's - it's - and I fully expect you would. More so than that, it's an opportunity for you to break up. I hear what you're saying.*

Suspicion Arises as to Gobbo's Role in Tomato Tins Importation

2791. On 4 July 2007, concern arose as to Ms Gobbo's involvement with Mr Karam. Text messaging between them was being intercepted which suggested Ms Gobbo may have some role in the importation. Members at the Drug Taskforce, unaware of Ms Gobbo's role, discussed putting a telephone intercept on her phone.
2792. Mr Biggin became aware when enquiries were made with him in his role as Superintendent over the unit responsible for surveillance, as to intercepting Ms Gobbo's phone. He had a discussion with the Inspector making the application in relation to the issue of legal professional privilege given Ms Gobbo's status as a barrister.³⁸⁰¹
2793. Following this Mr Biggin spoke to Mr Richards, who was Ms Gobbo's controller at the time, and later to Mr Sandy White. Mr Biggin's diary included a notation that there was 'no [REDACTED] in place'. This referred to Ms Gobbo having no [REDACTED].³⁸⁰²
2794. Ms Gobbo was then asked by her handler about the contact. She explained that she and Mr Karam were exchanging text messages used in evidence in Mr Karam's current trial as a joke. The SDU told Ms Gobbo to cease the behaviour. Arrangements were made to exchange phones with her in the

³⁸⁰¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 4 July 2007, 513, RCMP1.0075.0001.0001 @.0518.

³⁸⁰² Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 4 July 2007, 513 RCMP1.0075.0001.0001 @.0518.

event that she was arrested and questioned over her involvement with the importation.³⁸⁰³

2795. Mr Green was updated by the SDU and informed that Ms Gobbo had been told to stop the messaging. The SDU discussed the issue with Mr Biggin. It was noted that there were homicide operations which would be given priority over the Drug Taskforce application.³⁸⁰⁴
2796. Mr Smith had entries in his diary that day, indicating that he had been made aware of Ms Gobbo's involvement in suspect conversations and discussion as to the intercept application on her phone. His diary for this day includes the entry, '- Karam jury, - Gobbo live, - Intel meeting, -access to LD holdings', also indicating his awareness that Mr Karam was undergoing trial at the time.³⁸⁰⁵ Mr Karam's jury retired to consider its verdict a few days later.³⁸⁰⁶

Continued Information about Karam and His Associates

2797. That Ms Gobbo's allegiance was with Victoria Police and not her client is reflected in a conversation she had with her handler following the acquittal of Mr Karam on 10 July 2007. When reporting that all the accused had been found not guilty, Ms Gobbo also reported that 'in a way she feels sick about the verdict'. Incongruously, the police handler assured Ms Gobbo that she had been doing her job and was expected to do the best for her client.³⁸⁰⁷
2798. On 20 July 2007, Mr Sandy White noted during an SDU unit meeting that there was an opportunity for Ms Gobbo to initiate a conversation with Mr Karam about the container, and that the AFP and Victoria Police were considering a joint taskforce in relation to Mr Karam's next importation.³⁸⁰⁸ On 23 July 2007, Mr Sandy White received an update from Mr Fox. He was told that the Drug Taskforce wanted to wait until Mr Karam returned from Italy before considering using [REDACTED].³⁸⁰⁹
2799. Ms Gobbo continued to provide information to the SDU, which was verbally disseminated to Mr Green at the Drug Taskforce in relation to Mr Karam's telephone contact details, movements and associations.³⁸¹⁰
2800. Ultimately in 2008, after having notified police of Mr Karam's planned departure for meetings in Hong Kong in relation to a related police investigation, Ms Gobbo told them about his planned return for his [REDACTED] on 8 August 2008. He was arrested on this date.
2801. Between April 2008 and April 2009, approximately 33 individuals were arrested and charged with various offences related to three drug-related operations, including the 'Tomato Tins' matter. In the proceedings which

³⁸⁰³ Exhibit RC0281 ICR3838 (088), 4 July 2007, 981-985, VPL.2000.0003.2567-.2571.

³⁸⁰⁴ Exhibit RC0284 SML3838, 4 July 2007, 115, VPL.2000.0001.9447 @.9561.

³⁸⁰⁵ RC1192 Mr Steven Smith diary, 4 July 2007, 20, RCMPI.0126.0001.0007 @.0020.

³⁸⁰⁶ Exhibit RC0281 ICR3838 (088), 6 July 2007, 992, VPL.2000.0003.2578.

³⁸⁰⁷ Exhibit RC0281 ICR3838 (088), 10 July 2007, 1000, VPL.2000.0003.2586.

³⁸⁰⁸ Exhibit RC0305 Mr Sandy White diary, 20 July 2007, 3, RCMPI.0092.0001.0001 @.0003.

³⁸⁰⁹ Exhibit RC0305 Mr Sandy White diary, 23 July 2007, 7, RCMPI.0092.0001.0001 @.0007.

³⁸¹⁰ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

ensued, Ms Gobbo appears to have represented up to 14 individuals on at least one occasion following their arrest.³⁸¹¹

Part 4 – Representation of Orman and Gatto

Background

Purana Phase One and Two

2802. The first phase of the Purana Taskforce focused on the gangland murders, targeting Mr Andrew Veniamin and his associates, then others including Mr Carl Williams, Mr Domenic ‘Mick’ Gatto and their associates.³⁸¹² Sometime between October 2002 when Mr Paul Kallipolitis was murdered and April 2003 when Mr Nikolai Radev was murdered, Mr Veniamin switched his allegiance from the Gatto group to the Williams group.³⁸¹³ The first of the ‘hitmen’ to agree to co-operate with police and give evidence against Mr Carl Williams and other associates was Mr McGrath. He did so under the advice of Ms Gobbo. Ms Gobbo’s role in advising Mr McGrath through this process was concealed by the police, and she was then able to provide legal advice and representation to others who were subsequently charged including Messrs Carl Williams and Thomas.

2803. The second phase of the Purana Taskforce focused on Mr Antonios ‘Tony’ Mokbel and his associates through Operation Posse, which was a major drug investigation into the Mokbel family and their associates.³⁸¹⁴ This investigation, and its success, was enabled by the recruitment of Ms Gobbo as a human source. At its root, Ms Gobbo provided information against her own clients, whilst she continued to represent them. She also represented and advised numerous of those arrested and charged as a result of Operation Posse.

Purana Phase Three

2804. By 2007, following the success of its first two phases, the Purana Taskforce entered its third phase of investigations, turning its attention to the ‘Carlton Crew’ headed by Mr Gatto.³⁸¹⁵

2805. Mr Gatto had been the first person prosecuted by the Purana Taskforce. On 23 March 2003, Mr Gatto shot and killed Mr Veniamin. He was charged with his murder.³⁸¹⁶ Then Detective Senior Constable Boris Buick was the informant. On 15 June 2005, following a trial in which Mr Gatto raised the defence of self-defence, he was acquitted of the murder of Mr Veniamin.³⁸¹⁷

³⁸¹¹ See case review of Mr Rabie Karam in Volume 3 of submissions of Counsel Assisting.

³⁸¹² Transcript of Inspector Boris Buick, 29 October 2019, 8495 [23]-[29], RCMPI_29Oct19_provisional.

³⁸¹³ Transcript of Inspector Boris Buick, 29 October 2019, 8495 [31]-[34], RCMPI_29Oct19_provisional.

³⁸¹⁴ Transcript of Mr Simon Overland, 21 January 2020, 12067 [14] – [24], TRN.2020.01.21.01.P.

³⁸¹⁵ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 4 [8], VPL.0014.0029.0001 @.0004; Transcript of Inspector Boris Buick, 29 October 2019, 8495 [36]-[37], RCMPI_29Oct19_provisional.

³⁸¹⁶ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 5 [13], VPL.0014.0029.0001 @.0005.

³⁸¹⁷ Exhibit RC0269 Statement of Commander Stuart Bateson, 7 May 2019, 8 [43], VPL.0014.0027.0001 @.0008.

2806. The Purana Taskforce considered that Mr Gatto was a suspect in other murders which occurred between 2000 and 2002, being those of Messrs Francesco Benvenuto, Dino Dibra, Victor Peirce and Paul Kallipolitis.³⁸¹⁸

2006 - Ms Gobbo's Early Involvement with Mr Gatto

2807. Ms Gobbo began cultivating a relationship with Mr Gatto and providing information about Mr Gatto to her handlers from 2006, even though she was not specifically tasked to provide such information.³⁸¹⁹

2808. On 22 May 2006, Ms Gobbo reported to her handlers that she met him on that day.³⁸²⁰ Ms Gobbo indicated that it was the first time that they had spoken since a chance meeting in a restaurant in 2003.³⁸²¹ Mr Gatto told Ms Gobbo that Purana Taskforce Detectives were celebrating at a restaurant at the top of Bourke Street after the arrest of Mr Milad Mokbel.³⁸²² Ms Gobbo told her handlers that she found Mr Gatto intimidating and observed that she thought it was odd that he was making a point of talking to her given that she was well known to be on the 'other side' (aligned to the Mokbels).³⁸²³

2809. While not specifically tasked to build a relationship with Mr Gatto, from this point on Ms Gobbo was having regular contact with him and reporting on this to her handlers. Ms Gobbo provided her handlers with Mr Gatto's mobile phone number, the make and registration number of his car, information regarding firearms in his possession, details of who he was meeting with and what was discussed at dinners and other social events that she attended with him.³⁸²⁴

2810. On 9 June 2006, Ms Gobbo advised her handlers that Mr Gatto told her he had given his recommendation to others to use her.³⁸²⁵

2811. On 24 and 25 July 2006, Ms Gobbo reported to her handler, Mr Peter Smith, that Mr Gatto had a source saying that there was a female source working for the Purana Taskforce,³⁸²⁶ perhaps providing her another motivation to develop a close relationship with him. Ms Gobbo told Mr Peter Smith that Mr Gatto would like more contact with her, and if they became friendly, she considered that he would provide her with information of intelligence value.³⁸²⁷

³⁸¹⁸ Exhibit RC0262 Statement of Acting Inspector Mark Hatt, 17 June 2019, 6 [38], VPL.0014.0043.0001 @.0006.

³⁸¹⁹ Exhibit RC0281 ICR3838 (025), 5 April 2006, 223, VPL.2000.0003.1809.

³⁸²⁰ Exhibit RC0281 ICR3838 (032), 22 May 2006, 300, VPL.2000.0003.1891.

³⁸²¹ Exhibit RC0281 ICR3838 (032), 22 May 2006, 300, VPL.2000.0003.1891.

³⁸²² Exhibit RC0281 ICR3838 (032), 22 May 2006, 300, VPL.2000.0003.1891.

³⁸²³ Exhibit RC0281 ICR3838 (032), 22 May 2006, 300, VPL.2000.0003.1891.

³⁸²⁴ Exhibit RC0281 ICR3838 (032), 22 May 2006, 300, VPL.2000.0003.1891.; Exhibit RC0281 ICR3838 (110), 14 November 2007, 1398 and 1404, VPL.2000.0003.2984 and .2990; Exhibit RC0281 ICR3838 (071), 23-24 March 2006, 729-730, VPL.2000.0003.2315-.2316; Exhibit RC0281 ICR3838 (110), 11 November 2007, 1390, VPL.2000.0003.2976.

³⁸²⁵ Exhibit RC0281 ICR3838 (034), 9 June 2006, 323, VPL.2000.0003.1909.

³⁸²⁶ Exhibit RC0281 ICR3838 (039), 24-25 July 2006, 367-368 and 370, VPL.2000.0003.1953-.1954 and .1956.

³⁸²⁷ Exhibit RC0281 ICR3838 (039), 26 July 2006, 370, VPL.2000.0003.1956.

2812. On 24 December 2006, Ms Gobbo received an SMS from Mr Gatto for Christmas and Ms Gobbo provided her handler, Mr Green, with Mr Gatto's phone number.³⁸²⁸

2006 Cases for Faruk Orman

2813. Ms Gobbo acted for Mr Orman at various times between 2002 and 2008. Relevantly, during 2006 she appeared for him in a court case in Queensland in October 2006 (Mr Gatto funded his representation).³⁸²⁹
2814. On 19 October 2006, Ms Gobbo appeared on behalf of Mr Faruk Orman in Queensland in relation to affray charges. Ms Gobbo advised her handler, Mr Anderson that Mr Orman was connected to Mr Gatto and that Mr Gatto would fund Mr Orman's case in Queensland.³⁸³⁰ She indicated that she planned to have lunch with Mr Gatto and Mr Matt Tomas, which would help the overall relationship.³⁸³¹
2815. On 25 October 2006, Ms Gobbo discussed general matters with Mr Orman regarding Solicitor 2, Mr Mario Condello, Mr Gatto and Mr Steve Kaya (another associate of Mr Gatto's).³⁸³² Ms Gobbo advised her handler that Mr Orman was very accurate in his knowledge of these people.³⁸³³
2816. Ms Gobbo again acted for Mr Orman following his arrest on 14 December 2006 in relation to a shooting incident, including in a bail application.³⁸³⁴ She had provided information to her handlers in relation to Mr Orman's location on the day of the shooting, and following that as to where he might have disposed of the gun and clothing that he had been wearing.³⁸³⁵

Gobbo's Continuing Association With and Representation of Mr Thomas

2817. As referred to elsewhere in these submissions, Ms Gobbo had been involved in negotiations as to Mr Thomas' plea of guilty the previous year, and in relation to his co-operation with police. She had attended at the Purana offices on 18 July 2006 to read through numerous of Mr Thomas' statements, including statements relating to murders for which Messrs Gatto and Orman were suspects.
2818. Ms Gobbo continued her involvement with Mr Thomas following this, including it seems taking a friend, confident and counselling role as well as that of legal advisor. She was on his prison telephone list and spoke with him regularly. She also continued to conduct professional visits on him throughout 2006 and 2007.³⁸³⁶
2819. On 20 May 2007, Ms Gobbo indicated to her handler, Mr Anderson, she was aware that Mr Thomas was making another statement about Mr Gatto.³⁸³⁷

³⁸²⁸ Exhibit RC0281 ICR3838 (058), 24 December 2006, 593, VPL.2000.0003.2179.

³⁸²⁹ Exhibit RC0281 ICR3838 (049), 19 October 2006, 502, VPL.2000.0003.2088.

³⁸³⁰ Exhibit RC0281 ICR3838 (049), 19 October 2006, 502 and 506, VPL.2000.0003.2088. and .2092.

³⁸³¹ Exhibit RC0281 ICR3838 (049), 19 October 2006, 506, VPL.2000.0003.2092.

³⁸³² Exhibit RC0281 ICR3838 (051), 25 October 2006, 521, VPL.2000.0003.2107.

³⁸³³ Exhibit RC0281 ICR3838 (051), 25 October 2006, 521, VPL.2000.0003.2107.

³⁸³⁴ Exhibit RC0281 ICR3838 (057), 14 December 2006, 585, VPL.2000.0003.2171.

³⁸³⁵ Exhibit RC0281 ICR3838 (057), 14 December 2006, 585-586, VPL.2000.0003.2171-.2172.

³⁸³⁶ Exhibit RC1359 Prisoners visited by Ms Nicola Gobbo archive report, 21 September 2007, CNS.0001.0003.0037.

³⁸³⁷ Exhibit RC0281 ICR3838 (080), 20 May 2007, 843, VPL.2000.0003.2429.

On 22 and 29 May 2007, Messrs Buick and Hatt attended upon Mr Thomas in prison to obtain a further statement from him in relation to the murder of Mr Peirce. The statement implicated Mr Gatto as well as Mr Orman.³⁸³⁸

2820. On 23 May 2007, Ms Gobbo reported to Mr Anderson that Mr Thomas had given her a financial power of attorney over his affairs.
2821. Ms Gobbo's continuing association and representation of Mr Thomas was not unknown to Purana investigators. On 11 June 2007, during a professional visit to Mr Thomas she made notes in her court book indicating Mr Thomas had provided Ms Gobbo with instructions to enquire with Mr Hatt about the reward he might receive in relation to his co-operation.³⁸³⁹ A few days later, on 13 June 2007, Mr Hatt spoke with Mr Thomas who requested that Mr Hatt speak with 'his solicitor Nicola Gobbo'. Mr Hatt then spoke with Ms Gobbo. Following this on 15 June 2007, Mr Hatt and Mr L'Estrange provided Ms Gobbo with documents relating to Mr Thomas' security.³⁸⁴⁰

2007 – Development of Gobbo's Relationship with Gatto

2822. In early 2007, there were discussions within the SDU, and with others outside of the SDU about winding down the use of Ms Gobbo as a human source. It is very clear that Ms Gobbo could not contemplate a ceasing of the relationship with Victoria Police. In the period that followed, she persisted in offering assistance in relation to various people whom she knew would be of interest to Victoria Police, including Mr Gatto.³⁸⁴¹
2823. On 20 March 2007 Ms Gobbo reported that Mr Gatto had appointed her as the lawyer for his business, Elite Cranes, to handle their civil cases.³⁸⁴²
2824. On 24 March 2007, Ms Gobbo attended a dinner at the 'Society Restaurant' on Bourke Street with Mr Gatto, Mr Orman, Mr Kaya, Mr John Khoury and others to 'celebrate' the three year anniversary of Mr Gatto's killing of Mr Veniamin.³⁸⁴³ Ms Gobbo advised her handler, Mr Anderson, that this was the first time she had been out for dinner with Mr Gatto and his crew.³⁸⁴⁴ She reported feeling intimidated by Mr Gatto and said he was trying to obtain information from her about Mr Thomas.³⁸⁴⁵

³⁸³⁸ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 6 [20], VPL.0014.0029.0001 @.0006; Exhibit RC0252 Purana Chronology prepared by Commander Stuart Bateson, 22 and 29 May 2007, 44, VPL.0015.0001.0409 @.0452.

³⁸³⁹ Exhibit RC0273 Ms Nicola Gobbo court book, 11 June 2007, 109, MIN.0001.0014.0784 @.0892.

³⁸⁴⁰ RC0252 Purana Chronology prepared by Commander Stuart Bateson, 13, 15, 18 June 2007, 44-45, VPL.0015.0001.0409 @.0452-.0453.

³⁸⁴¹ Exhibit RC0284 SML3838, 22 May 2007, 111, VPL.2000.0001.9447 @.9557; Exhibit RC0281, ICR3838 (083), 14 June 2007, 893, VPL.2000.0003.2479; Exhibit RC0281 ICR3838 (083), 15 June 2007, 899, VPL.2000.0003.2485; Exhibit RC0509 Transcript of meeting between Nicola Gobbo and Sandy White, 274-289, 300-301, 304, VPL.0005.0137.0849 @.1122-1137, 1138-1149, 1152; Exhibit RC0281, ICR3838 (078), 9 May 2007, 830-831, VPL.2000.0002.2416-2417; Exhibit RC0292 Mr Sandy White diary, 10 May 2007, 6, VPL.0100.0096.0621 @.0626; Exhibit RC0281 ICR3838 (082), 5 June 2006, 876-882, VPL.2000.0002.2462-2468.

³⁸⁴² Exhibit RC0281 ICR3838 (071), 20 March 2007, 722, VPL.2000.0003.2308.

³⁸⁴³ Exhibit RC0281 ICR3838 (071), 24 March 2007, 729, VPL.2000.0003.2315.

³⁸⁴⁴ Exhibit RC0281 ICR3838 (071), 24 March 2007, 730, VPL.2000.0003.2316.

³⁸⁴⁵ Exhibit RC0281 ICR3838 (071), 24 March 2007, 729-730, VPL.2000.0003.2315-.2316.

2825. On 17 April 2007 Mr Gatto conferred with Ms Gobbo regarding his son's drink driving charges.³⁸⁴⁶ At this meeting, Mr Gatto also gave Ms Gobbo authority to act for Elite Cranes regarding the prosecution of fines.³⁸⁴⁷
2826. On 19 April 2007, Ms Gobbo saw Mr Gatto whilst she was with Mr Rabie Karam and his crew.³⁸⁴⁸ Ms Gobbo reported to her handlers that she considered that Mr Gatto was very possessive of her in front of Mr Karam and her belief that Mr Gatto wanted to be physically intimate with her.³⁸⁴⁹
2827. On 20 April 2007, Mr Gatto confirmed Ms Gobbo's appointment as the representative for Elite Cranes for fines and issues with the Sherriff, welcoming her on board to the 'team'. He also confirmed her representation of his son, Mr Justin Gatto, for drink driving. Ms Gobbo passed this information on to her handler, Mr Anderson, during a telephone conversation.³⁸⁵⁰ Ms Gobbo met with Mr Justin Gatto on 30 April 2007 in relation to his case.³⁸⁵¹
2828. In the later part of 2007, Ms Gobbo's personal relationship with Mr Gatto developed. Ms Gobbo told her handlers that Mr Gatto was showering her with gifts and dinners at restaurants, and that they had regular discussions about whether they would have a sexual relationship or have children together.³⁸⁵²
2829. On 5 June 2007, Ms Gobbo provided the names of a number of people that she could 'get to' in order to supply intelligence, including Mr Gatto and Mr Karam to her handler, Mr Anderson.³⁸⁵³ Mr Anderson indicated that the SDU had an interest in those individuals and that they knew that Ms Gobbo was communicating with them, but advised her to do nothing at that stage but that they would 'come onto all of this very soon'.³⁸⁵⁴
2830. On 16 September 2007, Ms Gobbo again advised her handler, Mr Fox, that she could 'get in' with Mr Gatto (and Mr Paul Dale) straight away if Victoria Police wanted her to.³⁸⁵⁵
2831. On 24 October 2007, Ms Gobbo told her handler, Mr Fox, that 'she needs to keep Gatto on her side' and that it was very important to her 'that he thinks she is loyal and staunch'.³⁸⁵⁶ She also said that she thought he was 'very well connected' and that 'she needs him to be able to refer clients to her' which was 'good for business'.³⁸⁵⁷ She told her handler that Mr Gatto was infatuated with her and sexually suggestive towards her.³⁸⁵⁸ She told her handler that Mr Gatto confided in her and that he had been told by a police source that he might be arrested by the Purana Taskforce before Christmas

³⁸⁴⁶ Exhibit RC0281 ICR3838 (075), 17 April 2007, 797, VPL.2000.0003.2383.

³⁸⁴⁷ Exhibit RC0281 ICR3838 (075), 17 April 2007, 797, VPL.2000.0003.2383.

³⁸⁴⁸ Exhibit RC0281 ICR3838 (075), 19 April 2007, 801, VPL.2000.0003.2387.

³⁸⁴⁹ Exhibit RC0281 ICR3838 (075), 19 April 2007, 801, VPL.2000.0003.2387.

³⁸⁵⁰ Exhibit RC0281 ICR3838 (075), 20 April 2007, 803, VPL.2000.0003.2389.

³⁸⁵¹ Exhibit RC0281 ICR3838 (077), 30 April 2007, 818, VPL.2000.0003.2404.

³⁸⁵² Exhibit RC0281 ICR3838 (112), 24 November 2007, 1449, VPL.2000.0003.3035.

³⁸⁵³ Exhibit RC0281 ICR3838 3838 (082), 5 June 2007, 882, VPL.2000.0003.2468.

³⁸⁵⁴ Exhibit RC0303 Transcript of meeting between Nicola Gobbo, Anderson and Fox, 5 June 2007, 411, VPL.0005.0137.0351 @.0761.

³⁸⁵⁵ Exhibit RC0281 ICR3939 (100), 16 September 2007, 1222, VPL.2000.0003.2808.

³⁸⁵⁶ Exhibit RC0281 ICR3838 (106) 24 October 2007, 1316, VPL.2000.0003.2902.

³⁸⁵⁷ Exhibit RC0281 ICR3838 (106) 24 October 2007, 1316, VPL.2000.0003.2902.

³⁸⁵⁸ Exhibit RC0281 ICR3838 (106) 24 October 2007, 1316, VPL.2000.0003.2902.

for the murders of Mr Frank Benvenuto and Mr Peirce.³⁸⁵⁹ He also told her that he was paying for Mr Orman's entire defence and sought insight from Ms Gobbo as to how strong the case against Mr Orman was.³⁸⁶⁰ She said that Mr Gatto had called Mr Thomas a 'dog' and made threats against him.³⁸⁶¹

2832. On 14 November 2007, Ms Gobbo told her handler, Mr Fox that the 'sky is the limit with Gatto now' as she had 'well and truly' gained his trust and that this was 'an amazing golden opportunity for us (police)'.³⁸⁶² Ms Gobbo went on to tell her handlers that her relationship with Mr Gatto will be good with respect to:

- more business through him referring clients to her
- her credibility amongst criminal circles
- in order to continue helping the police.³⁸⁶³

22 June 2007 – Plan to 'Roll' Mr Orman – The Weakest Link in the Carlton Crew

2833. On 22 June 2007, Mr Buick arrested and charged Mr Orman with the murder of Mr Victor Peirce on 1 May 2002. Mr Orman was charged with acting in concert with Mr Veniamin to murder Mr Peirce by acting as the 'getaway driver'.³⁸⁶⁴ Mr Gatto continued to fund Mr Orman's representation.³⁸⁶⁵

2834. As indicated by Mr Overland in his evidence to the Commission, and earlier to IBAC, the strategy of the Purana Taskforce involved the following:

- identifying weaknesses and vulnerabilities in these networks that might be exploited
- looking for persons involved in serious criminality who could be targeted, arrested and charged with serious criminal offences and then used to provide evidence against co-accused, or other more significant criminals, particularly those involved in the murders in exchange for lenience on sentence.³⁸⁶⁶

2835. Ms Gobbo gave evidence to the Commission of her awareness that Victoria Police had a plan to identify anybody in Mr Gatto's circle that they could turn into a human source.³⁸⁶⁷ Ms Gobbo gave evidence that initially Victoria Police wanted Mr McGrath to give evidence against Mr Gatto, then it became Mr Thomas and finally it was Mr Orman, who was a junior member of Mr Gatto's Carlton Crew.³⁸⁶⁸ Ms Gobbo acted for Mr McGrath, Mr Thomas

³⁸⁵⁹ Exhibit RC0281 ICR3838 (106) 24 October 2007, 1316, VPL.2000.0003.2902; Exhibit RC0281 ICR3838 (107), 31 October 2007, 1335, VPL.2000.0003.2921.

³⁸⁶⁰ Exhibit RC0281 ICR3838 (106) 24 October 2007, 1316, VPL.2000.0003.2902.

³⁸⁶¹ Exhibit RC0281 ICR3838 (106) 24 October 2007, 1316, VPL.2000.0003.2902.

³⁸⁶² Exhibit RC0281 ICR3838 (110) 14 November 2007, 1398, VPL.2000.0003.2984.

³⁸⁶³ Exhibit RC0281 ICR3838 (110) 14 November 2007, 1399, VPL.2000.0003.2985.

³⁸⁶⁴ Exhibit RC1745 Office of Public Prosecutions memorandum to the Director regarding Faruk Orman's sentence review, 22 December 2009, 2, VPL.

³⁸⁶⁵ Exhibit RC0281 ICR3838 (049), 19 October 2006, 502, VPL.2000.0003.2088.

³⁸⁶⁶ Transcript of Mr Simon Overland, 21 January 2020, 12065 [28] – 12066 [43], TRN.2020.01.21.01.P; Exhibit RC01.13 Transcript of IBAC examination of Mr Simon Overland, 22 November 2014, IBAC.0002.0001.0005.

³⁸⁶⁷ Transcript of Ms Nicola Gobbo, 7 February 2020, 13469 [21] – [25], TRN.2020.02.07.01.P.

³⁸⁶⁸ Transcript of Ms Nicola Gobbo, 7 February 2020, 13469 [27] – [30], TRN.2020.02.07.01.P.

and Mr Orman.³⁸⁶⁹ She also came to act for Mr Gatto. Further she was informing to police in relation to Messrs Thomas, Orman and Gatto. Nothing was done to prevent these conflicts, or to notify those who suffered compromised legal representation because of it.

2836. Mr Buick said Mr Orman may well have been spoken to about [REDACTED] Mr Gatto following his arrest, although he did not recall if he was present when that occurred.³⁸⁷⁰ Mr Buick was the lead investigator in the matter, as well as the head of the crew investigating Mr Gatto during this time.³⁸⁷¹ It is very likely that he would have been a participant in such a conversation.
2837. Upon his arrest, Mr Orman was given his rights, including the right to contact a legal representative. Mr Orman asked for Ms Gobbo. Mr Buick did not inform Mr Orman that this would be inappropriate, or otherwise discourage his seeking advice from Ms Gobbo. Mr Orman rang Ms Gobbo. She did not answer, and he left a message. He then spoke with an instructing solicitor at the firm of Galbally Rolfe.³⁸⁷²

Gobbo Passes on Orman's Weaknesses and Vulnerabilities

2838. On the night of Mr Orman's arrest, Ms Gobbo attended a dinner with Messrs Gatto, Kaya and others.³⁸⁷³ Mr Overland gave evidence to the Commission that he was aware that Ms Gobbo had dinner with Mr Gatto after Mr Orman's arrest.³⁸⁷⁴
2839. Ms Gobbo reported to her handler, Mr Fox, on her conversation with Mr Gatto during the evening, including that he wanted her to visit Mr Orman in custody. She also provided information to Victoria Police about Mr Orman's vulnerabilities in custody that she had gleaned from Mr Gatto.³⁸⁷⁵ These vulnerabilities included:³⁸⁷⁶
- he was obsessive compulsive with respect to cleanliness
 - he had a short temper
 - he always needed people around him
 - if he was isolated and left in messy conditions, he would not cope.
2840. This information was passed on to then Inspector Jim O'Brien, who passed it on to Mr Boris Buick.³⁸⁷⁷

³⁸⁶⁹ Transcript of Ms Nicola Gobbo, 7 February 2020, 13469 [27] – [30], TRN.2020.02.07.01.P.

[REDACTED]
³⁸⁷² Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 6 [23], VPL.0014.0029.0001 @.0006.

³⁸⁷³ Exhibit RC0281 ICR3838 (085), 22 June 2007, 927-929, VPL.2000.0003.2513-.2515.

³⁸⁷⁴ Transcript of Mr Simon Overland, 19 December 2019, 11799 [32] – [33], TRN.2020.01.21.01.P.

³⁸⁷⁵ Exhibit RC0281 ICR3838 (085), 22 June 2007, 928, VPL.2000.0003.2514.

³⁸⁷⁶ Exhibit RC0281 ICR3838 (085), 22 June 2007, 928, VPL.2000.0003.2514.

³⁸⁷⁷ Exhibit RC0281 ICR3838 (085), 22 June 2007, 928, VPL.2000.0003.2514; Transcript of Mr O'Brien, 10 September 2019, 5942 [1]-[3].

2841. Mr Buick gave evidence that following this time Mr Orman was held in isolated conditions which he believed was due to Corrections Victoria's prisoner placement policy.

Gobbo's Representation of Orman

2842. On 26 July 2007, Mr Orman called Ms Gobbo and said that he believed that Mr Thomas 'dumped' her 'well before he rolled' and that Mr Thomas had been 'playing this charade' also.³⁸⁷⁸ Ms Gobbo provided this information to her handler, Mr Fox.³⁸⁷⁹
2843. Following his arrest, Ms Gobbo came to act for Mr Orman. This included her appearing in court in late October and November 2007. These appearances related to disclosure being sought in the lead up to committal proceedings.³⁸⁸⁰
2844. Mr Richter stated to the Commission that the prosecution of Mr Orman was the only matter in which he recalled Ms Gobbo to have acted as his junior, and that they worked on the case sporadically together between 2007 and 2009. Mr Richter understood that Ms Gobbo contacted Mr Orman shortly after his arrest and following this she had been briefed by his instructing solicitor, Mr Rolfe.³⁸⁸¹ Later in 2007, when the brief of evidence was served, Ms Gobbo was briefed to advise in relation to the strength of the prosecution case and what disclosure requests and subpoenas should be drafted. Mr Richter said around that time he was approached to appear for Mr Orman once his matter was listed for committal and trial. He recalled that Ms Gobbo was involved in obtaining instructions from Mr Orman, who was on remand, and discussing the nature of the evidence with him.³⁸⁸²
2845. As indicated by Mr Richter, the case against Mr Orman centred on the evidence of Mr Thomas. Having been instructed that the evidence of Mr Thomas was false, the defence had to explore the genesis and development of Mr Thomas' evidence. Accordingly, they were seeking statements, material and transcripts relating to Mr Thomas in order to attack Mr Thomas' credibility.³⁸⁸³
2846. Mr Richter said he had not the 'slightest inkling' that the real efforts at resisting proper disclosure were directed at protecting Ms Gobbo's efforts, in concert with the police, to do a deal and alter his evidence as well as to try and [REDACTED] in their investigation of Mr Gatto.³⁸⁸⁴

³⁸⁷⁸ Exhibit RC0281 ICR3838 (092), 26 July 2007, 1067, VPL.2000.0003.2653.

³⁸⁷⁹ Exhibit RC0281 ICR3838 (092), 26 July 2007, 1067, VPL.2000.0003.2653.

³⁸⁸⁰ Exhibit RC1819 Office of Public Prosecutions file note titled 'Faruk Orman Special Mention,' 29 October 2007, OPP.0011.0005.0017; Exhibit RC0661 Office of Public Prosecutions file note titled 'Police v Faruk Orman,' 19 November 2007, OPP.0011.0005.0268; Exhibit RC0662 Letter from Boris Buick to The Registrar, Melbourne Magistrates' Court, 19 November 2007, OPP.0011.0005.0013.

³⁸⁸¹ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 2 [6], RCMPI. 0115.0001.0001 @.0002.

³⁸⁸² Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 3 [9] – [10], RCMPI. 0115.0001.0001 @.0003.

³⁸⁸³ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 3-4 [11] – [13], RCMPI. 0115.0001.0001 @.0003-.0004.

³⁸⁸⁴ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 4 [15], RCMPI. 0115.0001.0001 @.0004.

Buick Awareness of Gobbo Conflict regarding Orman

2847. It is apparent that Mr Buick and other members of the Purana Taskforce were content to raise the issue of conflict of interest, when it was regarded as advantageous to their case to do so.
2848. In early October 2007, Mr Buick had sent a number of emails to the instructing solicitor at the OPP, Ms Vicky Prapas, indicating complaints that had been raised about potential conflicts of interest:
- on 3 October 2007 he indicated by email that the wife of Mr Peirce had raised an issue of conflict in respect of Mr Brian Rolfe's representation of Mr Orman, in circumstances where he had previously represented Mr Peirce³⁸⁸⁵
 - on 4 October 2007, he indicated by email that Mr Thomas had raised with him that Mr Rolfe had previously acted for Mr Thomas when he had been charged and convicted of false imprisonment in 2004³⁸⁸⁶
 - on 8 October 2007, he spoke with Ms Prapas and told her that the wife of Mr Peirce had written to the Chief Justice, the Chief Magistrate and the Law Institute of Victoria about the conflict of Mr Rolfe, and that Mr Thomas had indicated an intention to do likewise³⁸⁸⁷
 - on 8 October 2007, he spoke with Ms Prapas about Mr Rolfe's conflict who indicated she would seek instructions.³⁸⁸⁸
2849. Following this time, if not before, Mr Buick became aware of Ms Gobbo's representation of Mr Orman.³⁸⁸⁹
2850. It is submitted that it is of concern that in circumstances where Mr Buick was aware:
- of Ms Gobbo's representation of Mr Orman³⁸⁹⁰
 - of Ms Gobbo's representation of Mr Thomas
 - that the case against Mr Orman relied to a substantial degree on the word of a client of Ms Gobbo's, Mr Thomas³⁸⁹¹
 - that Ms Gobbo was in a position to know of material which could discredit Mr Thomas³⁸⁹²
- he did not raise any concern about her having a conflict.³⁸⁹³
2851. Mr Buick said it did not occur to him to raise Ms Gobbo's conflict with the OPP as he had done in relation to earlier conflicts related to Mr Rolfe. He

³⁸⁸⁵ Exhibit RC0671 Email from Boris Buick to Vicky Prapas, 3 October 2007, OPP.0011.0005.0206.

³⁸⁸⁶ Exhibit RC0672 Email from Boris Buick to Vicky Prapas, 4 October 2007, OPP.0011.0005.0207.

³⁸⁸⁷ Exhibit RC0673 Office of Public Prosecutions file note titled 'Orman,' 8 October 2007, OPP.0011.0005.0258.

³⁸⁸⁸ Exhibit RC0673 Office of Public Prosecutions file note titled 'Faruk Orman,' 8 October 2007, OPP.0011.0005.0258.

³⁸⁸⁹ Transcript of Inspector Boris Buick, 30 October 2019, 8649, TRN.2019.10.30.01.P.

³⁸⁹⁰ Transcript of Inspector Boris Buick, 30 October 2019, 8649, TRN.2019.10.30.01.P.

³⁸⁹¹ Transcript of Inspector Boris Buick, 30 October 2019, 8649, TRN.2019.10.30.01.P.

³⁸⁹² Transcript of Inspector Boris Buick, 30 October 2019, 8649-8650, TRN.2019.10.30.01.P.

³⁸⁹³ Transcript of Inspector Boris Buick, 30 October 2019, 8649-8651, TRN.2019.10.30.01.P.

said he did not regard such a conflict as his to manage, despite his recognising that conflicts were raised in order to prevent compromise of court processes.³⁸⁹⁴

2852. It is submitted that it is of further concern that on 11 December 2007, Mr Buick queried the SDU as to whether information from Ms Gobbo could be used in an affidavit seeking [REDACTED] in respect of Mr Orman. He was told it could be, and not to refer to her registered source number in the affidavit (as was required by police procedure).³⁸⁹⁵

2853. It is submitted that this confirms Mr Buick's knowledge that Ms Gobbo was a human source providing information in relation to Mr Orman and others associated with him.

November 2007 – Gobbo Appearing for Gatto

2854. In mid-November 2007, Ms Gobbo advised Mr Fox that Mr Gatto had been served with a summons to a hearing at the coercive examination by Detective Acting Sergeant Mark Hatt and Mr Buick. Ms Gobbo said she had advised Mr Gatto that Mr Richter and his solicitor, Brian Rolfe, might be conflicted from representing him. Mr Gatto told her she was his next choice. Ms Gobbo provided further information about Mr Gatto's belief that the police were surveilling him or trying to introduce an informer to him. He spoke of his belief that he would be arrested before Christmas by the Purana Taskforce. This information was passed on verbally to Mr Ryan.³⁸⁹⁶

2855. Mr Buick said not all information would have been passed on from Mr Ryan, indicating much of what had been said on this occasion he already would have known.³⁸⁹⁷

2856. On 20 November 2007, at around 6:00pm discussions took place between Ms Gobbo and Mr Fox regarding the 'complications' of her representing Mr Gatto at a matter, the forthcoming coercive examination, scheduled the following day. Mr Fox told Ms Gobbo that the police might not be able to act on information in the future because of these issues. Ms Gobbo said she knew and would try to get out of it. Mr Ryan was updated.³⁸⁹⁸

2857. In a phone call at around 7:00pm, Ms Gobbo told Mr Fox that she had to appear at the coercive examination on behalf of Mr Gatto the following day as 'no one else was available'. Ms Gobbo indicated to Mr Fox that she would ask for an adjournment until Mr Richter was available. Ms Gobbo went on to tell Mr Fox about Mr Gatto's movements and his concerns in relation to the [REDACTED] hearing, including a discussion of matters occurring between Mr Gatto, Mr Richter and herself. Mr Fox verbally disseminated this information to Mr Ryan.³⁸⁹⁹

2858. During another call later that night, Ms Gobbo told Mr Fox about feeling the need to continue to 'get the big fish'. Mr Fox told her she should be thinking about finishing the relationship with the SDU, and that she was not 'tasked

³⁸⁹⁴ Transcript of Inspector Boris Buick, 1 November 2019, 8780-8781, TRN.2019.11.01.01.P.

³⁸⁹⁵ Exhibit RC0281 ICR3838 (115), 11 December 2007, 1519, VPL.2000.0003.3105.

³⁸⁹⁶ Exhibit RC0281 ICR3838 (110), 14 November 2007, 1399, VPL.2000.0003.2985.

³⁸⁹⁷ Transcript of Inspector Boris Buick, 1 November 2019, 8791-8792, TRN.2019.11.01.01.P.

³⁸⁹⁸ Exhibit RC0281 ICR3838 (111), 20 November 2007, 1428-1429, VPL.2000.0003.3014-.3015.

³⁸⁹⁹ Exhibit RC0281 ICR3838 (111), 20 November 2007, 1431, VPL.2000.0003.3017.

into Gatto', and that she should not feel obliged in that respect. Ms Gobbo said she felt the need to 'finish' things while she was still talking with the SDU.³⁹⁰⁰ When asked what she meant by that Ms Gobbo said she wanted to 'help solve crimes' for which Victoria Police had not yet arrested people.³⁹⁰¹

2859. On 21 November 2007, Mr Richter was available and did appear on behalf of Mr Gatto. Ms Gobbo appeared as his junior.³⁹⁰² Ms Gobbo told Mr Fox that she remained in the matter because Messrs Richter and Gatto 'really wanted her' there.³⁹⁰³

2860. Ms Gobbo advised her handler that a concern had been raised at the hearing about a conflict of interest in respect of she and Mr Richter.³⁹⁰⁴ Mr Fox noted:

HS was also accused of an appearance of conflict re Gatto.

2861. Mr Fox, in underlining his entry, clearly saw the irony in the limiting of Ms Gobbo's conflict. It is submitted that the evidence demonstrates that nothing was done to ensure the conflict did not continue.

2862. The Examiner indicated that he would check with police whether there was any conflict and returned and advised that they would be allowed to continue to represent Mr Gatto if they both understood the confidentiality procedures at the hearings.³⁹⁰⁵

2863. Investigators from the Purana Taskforce, who were no doubt contacted in relation to this matter for their view on conflict had a very good opportunity to do something about it in respect of Ms Gobbo. No concern was raised.

2864. Mr Fox discussed the conflict in acting for Mr Gatto with her 'informer identity'. He said he wanted to highlight the concerns of the SDU on the issue of conflict, as they had in the past. He wanted her assurance she would not represent Mr Gatto in the future, especially where she was conflicted with her role as a human source for the police. This caused Ms Gobbo to become upset because she felt that her commitment was being questioned.

2865. Ms Gobbo stated that spending time with Mr Gatto had cemented his perception of her as a competent barrister and that if he ever got arrested, he would call on her straight away. She stated that yet again she was missing out on money and fees because of what she was doing and that yet again she was putting the police first.

2866. Mr Fox explained that if she wanted to represent Mr Gatto then she needed to decide whether to do that or provide information to her handlers about him. Ms Gobbo told him it would be easy not to represent Mr Gatto in the future as she was 'conflicted with Thomas mainly'. He said there was no way she would represent him at a 'public court down the track if she is

³⁹⁰⁰ Exhibit RC0281 ICR3838 (111), 20 November 2007, 1432, VPL.2000.0003.3018.

³⁹⁰¹ Exhibit RC0281 ICR3838 (111), 20 November 2007, 1432-1433, VPL.2000.0003.3018-.3019.

³⁹⁰² Exhibit RC0281 ICR3838 (112), 21 November 2007, 1435, VPL.2000.0003.3021.

³⁹⁰³ Exhibit RC0281 ICR3838 (112), 21 November 2007, 1435, VPL.2000.0003.3021.

³⁹⁰⁴ Exhibit RC0281 ICR3838 (112), 21 November 2007, 1435, VPL.2000.0003.3021.

³⁹⁰⁵ Exhibit RC0281 ICR3838 (112), 21 November 2007, 1435, VPL.2000.0003.3021.

conflicted'. She went on that what happened at the coercive examination was in a closed hearing so it would never be seen 'in light of day'.³⁹⁰⁶

2867. It is submitted that the evidence demonstrates that Ms Gobbo was prepared to make a distinction between a person receiving independent legal representation where such evidence might never see the light of day as compared to when she was aware it would in a closed hearing, as compared to representation in a public hearing.
2868. On 22 November 2007, Ms Gobbo appeared for Mr Gatto at the second day of his hearing. She later updated Mr Fox as to how the hearing went, telling him that Mr Gatto requested to meet with her after the hearing because he will 'want to talk about how the hearing went without Richter being around'.³⁹⁰⁷
2869. Later, Ms Gobbo told Mr Fox that Mr Gatto was very worried that [REDACTED] or [REDACTED] 'may turn', explaining that he was worried about what they might say.³⁹⁰⁸ Mr Fox verbally disseminated this information to then Detective Sergeant Stuart Bateson, who was upgraded and acting as Officer in Charge of the Purana Taskforce for a number of weeks.³⁹⁰⁹

Issues with Mr Thomas

2870. On 9 November 2007, Ms Gobbo reported to her handler, Mr Fox, that Mr Thomas was really down and seriously contemplating telling the Purana Taskforce to 'get fucked'. She reported that Mr Thomas was talking about being resentenced and not giving evidence against Mr Orman, and that she thought 'he needs a visit from Purana to put him straight, otherwise he was going to give it all in'. She advised that Mr Thomas was very stubborn, and if pushed he would do this in principle. This information was reported to Mr Ryan.³⁹¹⁰
2871. Subsequently members Messrs Bateson and Hatt visited Mr Thomas and spoke with him on numerous occasions, and also had dealings with prison officials in order to placate Mr Thomas.³⁹¹¹
2872. Mr Thomas went on to give evidence against Mr Orman at his committal and at his trial.

November - December 2007 – Gobbo Continues to Inform on Gatto

2873. On 24 November 2007, Ms Gobbo told her handlers about a tape recording that Mr Gatto had made of [REDACTED] calling him from Port Phillip Prison to report that Purana investigators were trying to get him to roll on Mr Gatto. This information was disseminated to Mr Bateson.
2874. Ms Gobbo advised her handlers that Mr Gatto recorded the call on a USB drive and played it to Mr Richter, and wanted it stored on their computers

³⁹⁰⁶ Exhibit RC0281 ICR3838 (112), 21 November 2007, 1436, VPL.2000.0003.3022.

³⁹⁰⁷ Exhibit RC0281 ICR3838 (112), 22 November 2007, 1440, VPL.2000.0003.3026.

³⁹⁰⁸ Exhibit RC0281 ICR3838 (112), 22 November 2007, 1442, VPL.2000.0003.3028.

³⁹⁰⁹ Exhibit RC0281 ICR3838 (112), 22 November 2007, 1442, VPL.2000.0003.3028.

³⁹¹⁰ Exhibit RC0281 ICR3838 (109), 9 November 2007, 1381, VPL.2000.0003.2967.

³⁹¹¹ Exhibit RC0272 Commander Stuart Bateson diary, 14, 16, 26 November, 20 December 2007, 15 January 2008, 80, 81, 84, VPL.0005.0058.0404 @.0483, @.0484, .0487.

future reference. Ms Gobbo said it would not be good if that call was ever played to a jury where [REDACTED] was a witness. She advised Mr Fox that the call would have been captured by Port Phillip Prison if they wanted to listen to it. Mr Fox also verbally disseminated this information to Mr Bateson on 26 November 2007.³⁹¹²

2875. It was suggested to Mr Buick that it was likely such information would have been conveyed to him. He said it was possible.³⁹¹³
2876. On 6 December 2007, Mr Bateson recorded in his diary that he received the following information from Ms Gobbo through Mr Fox:³⁹¹⁴
- Mr Gatto had requested to see Mr Orman
 - the gun that Mr Gatto showed Ms Gobbo on 4 December 2007 was a grey plastic gun that he said Purana had found, which Ms Gobbo said was definitely not the gun that she saw him with a few weeks back
 - Mr Gatto recently had his car swept for listening devices
 - Mr Richter had provided advice that if the police had evidence they would have charged Mr Gatto by now, otherwise they would be trying listening devices or informers.
2877. On 7 December 2007, Mr Bateson recorded that he had passed on this information to Messrs Buick and Hatt.³⁹¹⁵

Bateson and Buick Awareness of Gobbo Conflict regarding Gatto

2878. Mr Bateson accepted that during this period in November and December he was receiving information from the SDU, much of it about Mr Gatto, and that he was aware that it was coming from Ms Gobbo.³⁹¹⁶ He did not accept that he necessarily knew that Ms Gobbo was acting for Mr Gatto during this period, the reason being 'because I don't think we had him charged with anything at that point', and that the coercive hearing had occurred a few days prior to his upgrading.³⁹¹⁷
2879. Mr Buick agreed that [REDACTED] of Mr Gatto would have been of some interest to his investigation and that he probably got a transcript of it. He said it was possible that Mr Bateson would have conveyed information to him he received from the SDU about Mr Gatto.³⁹¹⁸ Mr Buick did not agree that he would have been aware that the information he was being provided about Mr Gatto came from Ms Gobbo.³⁹¹⁹
2880. It is submitted that it is plain on the evidence that some of the information emanating from Ms Gobbo that was being disseminated to Mr Bateson and

³⁹¹² Exhibit RC0281 ICR3838 (112), 24 November 2007, 1450, VPL.2000.0003.3036; Exhibit RC0272 Commander Stuart Bateson diary, 26 November 2007, 84, VPL.0005.0058.0404 @.0487.

³⁹¹³ Transcript of Inspector Boris Buick, 1 November 2019, 8792-8793, TRN.2019.11.01.01.P.

³⁹¹⁴ Exhibit RC0272 Commander Stuart Bateson diary, 6 December 2007, 90, VPL.0005.0058.0404 @.0493.

³⁹¹⁵ Exhibit RC0272 Commander Stuart Bateson diary, 6 December 2007, 90, VPL.0005.0058.0404 @.0493.

³⁹¹⁶ Transcript of Commander Stuart Bateson, 22 November 2019, 9913-9916, TRN.2019.11.22.01.C.

³⁹¹⁷ Transcript of Commander Stuart Bateson, 22 November 2019, 9914-9916, TRN.2019.11.22.01.C.

³⁹¹⁸ Transcript of Inspector Boris Buick, 1 November 2019, 8792-8793, TRN.2019.11.01.01.P.

³⁹¹⁹ Transcript of Inspector Boris Buick, 1 November 2019, 8794, TRN.2019.11.01.01.P.

on to Mr Buick was clearly advice which was being provided by Mr Richter to Mr Gatto. It is submitted that there was a failure by both Messrs Bateson and Buick to question the circumstances in which police came to have this information, which was self-evidently of a privileged nature.

2881. When it was put to Mr Bateson that some of the information being provided to him related to advice which was being provided to Mr Gatto by Mr Richter, he indicated that the nature of the advice was not 'particularly earth shattering' and he didn't remember thinking anything about it at the time.³⁹²⁰

2882. **On the evidence, it is open to the Commissioner to find that Mr Bateson either knew that Ms Gobbo was acting for Mr Gatto, or alternatively had cause to make inquiries as to whether Ms Gobbo was acting for Mr Gatto. That is so because:**

- **he was aware that Ms Gobbo was a barrister and a registered human source**
- **he had prior experience with Ms Gobbo and knowledge of her role with Victoria Police and in particular her assistance to the Purana Taskforce**
- **he was aware of Ms Gobbo's previous and ongoing involvement with Mr Thomas, and her assistance to Victoria Police in that regard, including his own dealings with her in that respect**
- **he was aware of Ms Gobbo's involvement with Mr Gatto**
- **he was aware that Mr Gatto had cause to receive legal advice**
- **he was aware that police were receiving information as to the advice being provided to Mr Gatto by Mr Richter.**

2883. **On the evidence, it is open to the Commissioner to find that Mr Buick either knew that Ms Gobbo was acting for Mr Gatto, or alternatively had cause to make inquiries as to whether Ms Gobbo was acting for Mr Gatto. That is so because:**

- **he knew that Ms Gobbo was a barrister and a registered human source**
- **he had prior experience with Ms Gobbo and knowledge of her role with Victoria Police and in particular her assistance to the Purana Taskforce**
- **he was the lead investigator in relation to murder investigations against Mr Gatto, who was suspected of involvement in a number of murders, and the belief of investigators that Mr Orman might have knowledge of the involvement of Mr Gatto in one or more of those murders**

³⁹²⁰ Transcript of Commander Stuart Bateson, 22 November 2019, 9916-9917, TRN.2019.11.22.01.C.

- **he was aware of Ms Gobbo's involvement of with Mr Thomas, and did not raise any concern as to her conflict**
- **he was aware of Ms Gobbo's involvement of with Mr Orman, and did not raise any concern as to her conflict**
- **he was aware of Ms Gobbo's involvement with Mr Gatto**
- **he was aware that Mr Gatto had cause to receive legal advice**
- **he was aware that Victoria Police was receiving information as to the advice being provided to Mr Gatto by Mr Richter**
- **he was legally qualified.**

2884. Further to those matters, Mr Buick had personally served the summons on Mr Gatto. The hearing was adjourned near its commencement to seek the view of investigators as to conflict on the part of Ms Gobbo and Mr Richter. It is likely Mr Buick would have been consulted or informed about this. No issue was raised, either at the time or following, as to Ms Gobbo's involvement, despite Mr Buick's awareness of Ms Gobbo's obvious conflict.

2885. It is submitted that it is likely that Mr Buick received updates either during the hearing, or afterwards, and there could be little doubt he would have received transcripts of the coercive hearing revealing the involvement of Ms Gobbo as the legal representative to Mr Gatto. He again raised no concerns, consistent with his position in relation to Ms Gobbo's conflicts with Messrs Thomas and Orman.

2886. Notably, when Mr Buick became aware a few months later during the committal of Mr Orman, that Mr Gatto made public statements that Ms Gobbo was his legal representative, he raised no concerns then either.³⁹²¹

Early 2008 – Gobbo's Continued Involvement with Mr Gatto

2887. By 2008, the SDU were still struggling to wind down Ms Gobbo as an informer as their concerns regarding her being 'compromised' grew.³⁹²²

2888. On 1 February 2008, Mr Sandy White recorded in the Monthly Source Review that Ms Gobbo had been given the option of ending the relationship but had chosen not to. He went on that Ms Gobbo was becoming entrenched in Mr Gatto's group and was still highly trusted by Mr Karam. Ms Gobbo was still considered of value as a human source despite there being very limited opportunities to disseminate intelligence due to the risk of her being compromised.³⁹²³

³⁹²¹ Exhibit RC0284 SML2598, 13 March 2008, 14, VPL.2000.0001.9236 @.9249; Exhibit RC0882 Mr Wolf diary, 13 March 2008, 30, VPL.2000.0001.0098 @.0127.

³⁹²² Exhibit RC0284 SML2598, 18 June 2008, 34, VPL.2000.0001.9236 @.9269; Exhibit RC0284 SML2598, 7 August 2008, 38, VPL.2000.0001.9236 @.9273; Exhibit RC0284 SML2598, 30 September 2008, 46, VPL.2000.0001.9236 @.9281.

³⁹²³ Exhibit RC0284 SML2598, 1 February 2008 2008, 2, VPL.2000.0001.9236 @.9237.

February 2008 – Orman Representation

2889. Despite not having been alerted to Ms Gobbo's conflict, the OPP instructing solicitor in the matter of Orman, Ms Prapas, was sufficiently concerned to raise the issue herself.
2890. In February 2008, Ms Prapas, prepared a memorandum for counsel briefed to appear at Mr Orman's committal hearing the following month,³⁹²⁴ Senior Crown Prosecutor, Mr Geoff Horgan and his junior, Mr Andrew Tinney. Ms Prapas referred to a potential issue related to Mr Rolfe acting for Mr Orman given earlier representation of Mr Thomas in 2004, which Mr Thomas regarded as a potential conflict of interest. She went on:
- Of greater significance is the role Nicola Gobbo has played in the lead up proceeding in this matter. She appeared for Orman in two special mentions regarding Defence summonses. You may recall that Gobbo has acted for both Thomas ██████████ in recent OPP prosecutions. In particular, she was involved in the negotiations surrounding Thomas' indemnity and guilty plea to the murders of Moran and Barbaro.*
2891. On 13 February 2008, Mr Rolfe and his firm, Galbally Rolfe solicitors, withdrew from Mr Orman's representation.³⁹²⁵ Alastair Grigor of Grigor Lawyers was retained to act.³⁹²⁶
2892. It is apparent that Ms Gobbo also ceased acting, at least overtly, around this time.
2893. Mr Richter appeared at the committal of Mr Orman in March 2008.³⁹²⁷ Mr Richter stated to the Commission that whilst Ms Gobbo did not appear as his junior, she assisted him to prepare for the committal, including by preparing summaries of evidence and discussing the case with him. He recalled her attending court as a spectator during the proceeding.³⁹²⁸

February - March 2008 – Gobbo Concerns about Thomas

2894. Ms Gobbo's role as the junior counsel to that point had enabled her to maintain an awareness of material which was being disclosed to Mr Orman and his lawyers, and therefore information which might compromise her. This disclosure had included redacted transcripts of conversations between Mr Thomas and Purana investigators, Messrs O'Brien, Bateson and Ms Kerley, where Ms Gobbo was discussed.
2895. Whilst Ms Gobbo ceased appearing for Mr Orman on the record, she remained involved in the background of his case, keen to understand any risk of compromise to her and to continue providing police with information.

³⁹²⁴ Exhibit RC0675 Memorandum from Vicky Prapas to Geoff Horgan, 13 March 2008, OPP.0011.0005.0021.

³⁹²⁵ Exhibit RC0676 Facsimile from Galbally Rolfe to Vicky Prapas, 13 February 2008, OPP.0011.0005.0236.

³⁹²⁶ Exhibit RC1737 Facsimile from Grigor Lawyers to Boris Buick, 5 March 2008, OPP.0011.0005.0163.

³⁹²⁷ Exhibit RC0636 Statement of Inspector Boris Buick, 10 May 2019, 7 [26], VPL.0014.0029.0001 @.0007

³⁹²⁸ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 5-6 [19], RCMPPI.0115.0001.0001 @.0005-.0006.

2896. On 21 February 2008, Ms Gobbo spoke with her handler, Mr Wolf, wanting to know whether Mr Bateson had spoken to Mr Thomas about claiming legal professional privilege. Ms Gobbo was concerned that Mr Thomas was 'stupid and has to be told that he needs to claim legal professional privilege' if asked about [Ms Gobbo's] influence and involvement with him.³⁹²⁹
2897. On 26 February 2008, there had been a change of handler. Mr Green told Ms Gobbo that the 'Thomas matter' would be followed up with Mr Bateson and that the basic principles of not answering questions about what legal advice was given would be explained. Ms Gobbo said that Mr Bateson would know what to say and that Mr Thomas needed to be given simple basic instructions. She indicated that although Mr Buick was the informant in the case, Mr Bateson was trusted and respected by Mr Thomas.³⁹³⁰
2898. On 7 March 2008, there had been a change of handler back to Mr Wolf. Ms Gobbo spoke to Mr Wolf about the upcoming Orman committal.³⁹³¹ Mr Wolf then spoke with the controller, who recorded the following in the SML
- She is assisting Robert RICHTER QC who is representing Faruk ORMAN at his murder committal next week. RICHTER has asked the Source, "how can we discredit him (Mr THOMAS)?", whom the Source was instrumental in "rolling over". She is worried about a transcript which is on the brief in which her name has been blacked out 70 - 80 times. She has asked D/S/Sgt Stuart BATESON to speak to THOMAS and she believes he only passed on half the message re claiming legal privilege. [Handler] concerned that it has not been squared away but has been speaking to the informant D/Sgt BUICK to rectify same. THOMAS is due to give evidence on Tuesday. RICHTER has asked her why her name appears in the brief and she has been able to explain herself, but the material that has been blacked out will cause her problems if revealed.*³⁹³²
2899. It is clear from this that there was a complete appreciation by handler and controller that Ms Gobbo was providing legal representation to Mr Orman in circumstances where she had been instrumental in 'rolling over' Mr Thomas.
2900. In her earlier conversation with Mr Wolf, Ms Gobbo indicated that Mr Richter intended to ask police to justify deletions in the transcript in which her name had been blacked out a significant number of times.³⁹³³ This again prompted the need for Mr Thomas to be spoken to about claiming legal professional privilege. It was noted that Mr Buick had been spoken to by the handler and was to be involved in arrangements for Mr Thomas to be spoken to in this regard.
2901. Mr Buick told the Commission he was 'absolutely not' having conversations with Ms Gobbo's handlers throughout this period and could not explain why it might have been recorded that he had been.³⁹³⁴

³⁹²⁹ Exhibit RC0281 ICR2958 (005), 21 February 2008, 55, VPL.2000.0003.0795.

³⁹³⁰ Exhibit RC0281 ICR2958 (006), 26 February 2008, 64, VPL.2000.0003.0804.

³⁹³¹ Exhibit RC0281 ICR2958 (007), 7 March 2008, 80-81, VPL.2000.0003.0820-.0821.

³⁹³² Exhibit RC0284 SML2598, 7 March 2008, 11, VPL.2000.0001.9236 @.9246.

³⁹³³ Exhibit RC0281 ICR2958 (007), 7 March 2008, 80-81, VPL.2000.0003.0820-.0821.

³⁹³⁴ Transcript of Inspector Boris Buick, 1 November 2019, 8802-8803, TRN.2019.11.01.01.P.

2902. Ms Gobbo told Mr Wolf that if her role were revealed, she would be worthless in the legal fraternity as Mr Richter would know she had lied to him, although this would be irrelevant as she would be dead. Ms Gobbo was told that the [REDACTED] would be on standby, and [REDACTED] had been created should she be compromised.³⁹³⁵
2903. On 8 March 2008, Ms Gobbo reported to Mr Wolf that Mr Richter was working on the matter all weekend, and she continued to assist him. She said further that Mr Richter was aware that Mr Thomas had lied and perjured himself at the ACC and would seek the transcript to discredit him during the trial. Ms Gobbo sought reassurance that Mr Thomas would not discuss his conversations with her and was told that he had been spoken to by Mr Bateson, and they only had a certain level of control over what Mr Thomas might say about her.³⁹³⁶
2904. Mr Wolf spoke with Mr Ryan in relation to the matter. Mr Ryan said that Mr Thomas had been spoken to and was aware that legal professional privilege should be claimed and that he would be reminded again, although anything was possible under cross-examination.³⁹³⁷
2905. On 10 March 2008, Mr Wolf spoke again with Mr Ryan who said that Mr Buick was aware of Ms Gobbo's role as a human source, although Ms Gobbo did not know this. He said Mr Buick would brief Mr Thomas on legal professional privilege and would contact the handler regarding any issues. Mr Ryan said he would pass the handler's number to Mr Buick in order to facilitate this.³⁹³⁸
2906. Following this, Ms Gobbo was told by Mr Wolf that the Orman matter would be monitored and she would be advised of any issues affecting her where possible. She asked who would be present in court and was told that all communication would be via Mr Ryan. Mr Wolf noted Ms Gobbo seemed excited to know that Mr Ryan was involved in this process.³⁹³⁹ Ms Gobbo was also assisting Mr Ryan and Petra Taskforce investigators during this period in relation to their dealings with Mr Andrew Hodson.
2907. On 11 March 2008, Mr Sandy White, who was on a period of leave, spoke with the handler, Mr Wolf. Mr Wolf noted that the anticipated evidence of Mr Thomas had caused much consternation for Ms Gobbo, and that Mr Ryan had advised that Mr Thomas had been briefed to answer questions relating to the circumstances in which he had 'rolled over' as 'that is between me and my legal counsel'. Mr Ryan had told Mr Sandy White that if the issue was pushed by defence, the police would make a claim of public interest immunity. It was noted that Mr Buick and Mr Hatt were to be present in court overseeing proceedings.³⁹⁴⁰

2908. It is submitted that the evidence suggests that both Mr Buick and Mr Hatt were aware of the arrangements put in place to protect Ms Gobbo from compromise during the committal proceeding of Mr

³⁹³⁵ Exhibit RC0281 ICR2958 (007), 7 March 2008, 80-81, VPL.2000.0003.0820-.0821.

³⁹³⁶ Exhibit RC0281 ICR2958 (007), 8 March 2008, 82-83, VPL.2000.0003.0822-.0823.

³⁹³⁷ Exhibit RC0882 Mr Wolf diary, 8 March 2008, 14-15, VPL.2000.0001.0098 @.0111-112.

³⁹³⁸ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 14-24, VPL.2000.0001.0098 @.0121.

³⁹³⁹ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 14-24, VPL.2000.0001.0098 @.0121.

³⁹⁴⁰ Exhibit RC0284 SML2598, 11 March 2008, 13, VPL.2000.0001.9236 @.9248.

Orman. Consistent with this, Mr Buick provided updates to the SDU during the committal.

2909. Mr Buick was asked about these arrangements during his evidence to the Commission:

MS TITTENSOR: You were the one that was going to be present in court presumably to stand up and say "public interest immunity"; is that right?

MR BUICK: Well as the lead informant or the lead investigator that is my role.

MS TITTENSOR: Did you know that those were the instructions, that this witness has been briefed, if he's asked any questions about the circumstances of his rolling over, to make those comments and then that there would be PII claimed?

MR BUICK: I don't specifically recall that description but it's possible, and it's entirely reasonable. Entirely reasonable that at that point in time a PII claim ought to be made, VGSO engaged, independent counsel engaged, affidavits prepared and the matter argued before the court.

MS TITTENSOR: This is all to be claimed simply to avoid Ms Gobbo's role being elicited and her influence in that witness's statement process?

MR BUICK: Making of the claim in the Magistrates' Court at committal doesn't end there.

MS TITTENSOR: No, but it starts there?

MR BUICK: Making the claim then necessitates that process I've just described, which may or may not lead to the suppression of that information. But that's the court's decision.

MS TITTENSOR: You've just - you've given evidence just moments ago that defence are entitled to explore the circumstances and the influence of the witness in the making of that statement. This is a process that's been designed to avoid that happening, to avoid questions that will reveal Ms Gobbo's role in that process?

MR BUICK: That will be a decision by the magistrate to determine whether that is to be disclosed or not, because the magistrate will rule on the PII claim.

MS TITTENSOR: What were you told about this? Were you told, "We want to avoid him talking about Ms Gobbo"?

MR BUICK: Well, as I say, I don't recall that specific language but that is possible, that we would be seeking a claim to avoid how those statements came about in a PII claim.

MS TITTENSOR: And why?

MR BUICK: Well, it certainly puts Nicola Gobbo at great risk if others understand that she has assisted her client in providing evidence against them.

MS TITTENSOR: Her client being the witness or her client being Mr Orman?

MR BUICK: In the circumstances in which the statements were made she was representing the witness and it's that aspect of it that the claim might be made if it arose and I don't recall it actually arising, it may have, and that may be what Gerard Maguire's involvement was, I just can't recall.³⁹⁴¹

2910. On 12 March 2008, Mr Buick reported to Mr Wolf during the lunch break. He said that Mr Thomas had been asked questions about his previous legal advice which had resulting in him asking for further legal advice. Mr Thomas had spoken with Mr Valos and Mr Richter was no longer pursuing that line of questioning.³⁹⁴²
2911. Around ten minutes later, Mr Wolf received an angry call from Ms Gobbo. She reported that she had 'just happened' to be outside the court room in which Mr Orman's committal was being heard, when the matter had been stood down in order for Mr Thomas to obtain legal advice. The prosecutor came outside and asked her to give Mr Thomas the advice. She then sought out Mr Valos and arranged for him to provide the advice to Mr Thomas.³⁹⁴³ She later reported that she had been approached by the prosecutor in front of Messrs Buick, Grigor and Richter, and asked, 'You know a lot about this matter, can you give Thomas some legal advice?' She said she had then declined politely and located Mr Valos indicating he had more knowledge than she.³⁹⁴⁴
2912. Ms Gobbo also reported overhearing a police member on a mobile phone outside of court providing updates on proceedings. She queried why Mr Ryan was not in court and was told he was receiving updates and notifying the handler.³⁹⁴⁵
2913. Later than night Ms Gobbo reported that Mr Richter was arranging for the service of subpoenas on the ACC in relation the transcript of Mr Thomas' evidence. Ms Gobbo advised that this needed to be fought as there were 30 to 40 lies and contradictions to his statement contained within the

³⁹⁴¹ Transcript of Inspector Boris Buick, 1 November 2019, 8807-8808, TRN.2019.11.01.01.P.

³⁹⁴² Exhibit RC0882 Mr Wolf diary, 12 March 2008, 26, VPL.2000.0001.0098 @.0123.

³⁹⁴³ Exhibit RC0882 Mr Wolf diary, 12 March 2008, 26, VPL.2000.0001.0098 @.0123; Exhibit RC0281 ICR2958 (008), 12 March 2008, 92, VPL.2000.0002.0832.

³⁹⁴⁴ Exhibit RC0882 Mr Wolf diary, 12 March 2008, 27, VPL.2000.0001.0098 @.0124; Exhibit RC0281 ICR2958 (008), 12 March 2008, 92, VPL.2000.0002.0832.

³⁹⁴⁵ Exhibit RC0882 Mr Wolf diary, 12 March 2008, 14-26, VPL.2000.0001.0098 @.0123; Exhibit RC0281 ICR2958 (008), 12 March 2008, 93, VPL.2000.0002.0833.

transcripts. Ms Gobbo also indicated that the second statement of Mr Thomas' had referred to E-Tag records and photographs of the car for which she believed records might still be available.³⁹⁴⁶

2914. Significantly, throughout this period, none of Mr Buick's communications with the SDU were recorded in his diary or day book.

6 March 2008 – More Conflict with Gatto associate

2915. On 6 March 2008, Ms Gobbo told the SDU to notify Purana that, an associate of Mick Gatto, was in a panic about an hearing that was scheduled the following week. The associate wanted Mr Richter to represent him, but Mr Richter was unavailable due to the Orman committal. Ms Gobbo said that the associate wanted an adjournment and that he had received advice from Mr Richter about seeking an injunction. Mr Sandy White noted that Purana were to be advised of this information.³⁹⁴⁷
2916. Ms Gobbo drafted the injunction application and appeared for in the Supreme Court on behalf of the associate, charging him \$3,000.³⁹⁴⁸ The application was unsuccessful.
2917. On 13 March 2008, Ms Gobbo also advised her handler that she had successfully obtained an adjournment of the associate's matter.³⁹⁴⁹

13 - 14 March 2008 – Compromise Concern during Orman Committal

2918. On 13 March 2008, during Mr Orman's committal hearing, evidence was given by Mr Thomas relating to Mr Gatto which sparked the interest of the media, specifically evidence indicating that Messrs Gatto and Kaya were involved in murders including that of Mr Peirce. Channel 9 reporters contacted Mr Gatto for a comment and Mr Gatto referred them to his legal representative, Ms Gobbo.³⁹⁵⁰
2919. Ms Gobbo reported this to Mr Wolf, and also that Mr Gatto had arranged a meeting with she and Mr Kaya that night. Mr Wolf rang Mr Bernie Edwards, the new Officer in Charge of the Purana Taskforce to update him. He did the same with Mr Buick who said he was aware of the media release, and of the meeting between Mr Gatto and Ms Gobbo that night and that surveillance had been arranged to cover the meeting.³⁹⁵¹
2920. That evening, Detective Inspector Andrew Gustke of the Purana Taskforce Surveillance Unit had a surveillance team watching Mr Gatto.³⁹⁵² At some point, then Mr Esplanade, State Surveillance Unit crew leader, lost track of Mr Gatto. He contacted Mr Gustke and informed him that the target was lost.³⁹⁵³ Mr Gustke told him not to continue, but Mr Esplanade proceeded to

³⁹⁴⁶ Exhibit RC0281 ICR2958 (008), 12 March 2008, 93-94, VPL.2000.0003.0833-.0834.

³⁹⁴⁷ Exhibit RC0281 ICR2958 (007), 6 March 2008, 78, VPL.2000.0003.0818; Exhibit RC0284 SML2598, 6 March 2008, 10, VPL.2000.0001.9236 @.9245.

³⁹⁴⁸ Exhibit RC1568 Ms Nicola Gobbo fee book, 14 March 2008, 16, MIN.5000.7000.0103 @.0118.

³⁹⁴⁹ Exhibit RC0284 SML2598, 13 March 2008, 14, VPL.2000.0001.9236 @.9249.

³⁹⁵⁰ Exhibit RC0284 SML2598, 13 March 2008, 14, VPL.2000.0001.9236 @.9249; Exhibit RC0281 ICR2958 (008), 13 March 2008, 95, VPL.2000.0003.0835.

³⁹⁵¹ Exhibit RC0882 Mr Wolf diary, 13 March 2008, 30, VPL.2000.0001.0098 @.0127.

³⁹⁵² Exhibit RC0284 SML2598, 14 March 2008, 16, VPL.2000.0001.9236 @.9251; Exhibit RC1808

'Themes-Corruption' document, 19 March 2014, 118, VPL.2000.0001.8360_0117.

³⁹⁵³ Exhibit RC1808 'Themes-Corruption' document, 19 March 2014, 118, VPL.2000.0001.8360_0117.

contact then Detective Senior Constable John Niblett at the Purana Taskforce and asked him to find out where 'HS2958 was as HS was with target Gatto'.³⁹⁵⁴

2921. Following the meeting with Mr Gatto, Ms Gobbo reported to her handler, Mr Wolf. Mr Wolf then rang Mr Buick and updated him as to Ms Gobbo's report of the meeting. Mr Buick informed Mr Wolf of the contact by the SSU crew leader and the Purana investigator which revealed Ms Gobbo's identity as a human source. Following this, the controller, Mr Preston, Mr Black and Mr Biggin were informed and became involved in the matter.³⁹⁵⁵
2922. There were additional concerns beyond the disclosure of Ms Gobbo's identity to Mr Niblett who had not previously known that Ms Gobbo was an informer, as Mr Niblett was also believed to be an associate of a suspended Victoria Police officer, Mr Tony Juric, who was an associate of Mr Tomas and Mr Gatto.³⁹⁵⁶
2923. Various preliminary enquiries were made and meetings occurred within the SDU, and it was determined to ascertain the facts prior to making any decision about the deactivation of Ms Gobbo, informing her of the potential compromise or otherwise. Mr Wolf spoke with Mr Ryan and ascertained that members of the surveillance unit had previously called Purana investigators to obtain information from Ms Gobbo.³⁹⁵⁷
2924. At 12:25pm, following an SDU meeting involving Messrs Black, Preston, and Wolf where Mr Wolf briefed those present on the situation, Mr Black met with Messrs Buick, Kelly and Hatt of the Purana Taskforce and Mr Gustke of the SSU. Mr Black had earlier noted that Mr Wolf was content that Mr Black and Mr Preston meet with Mr Gustke alone as Controllers.³⁹⁵⁸
2925. Mr Biggin was briefed by Mr Black following this, as was the SDU's inspector, Mr Glow. Mr Black also made further enquiries with the SSU about the matter.³⁹⁵⁹
2926. Later in the day Mr Buick advised the SDU that Mr Niblett had already been aware of Ms Gobbo's identity prior to his conversation with Mr Esplanade the night before. Mr Niblett said he had become aware during Mr O'Brien's leadership of the Purana Taskforce.³⁹⁶⁰

2008-2009 – Gobbo Continues to Act for Orman

2927. Mr Richter recalls that Ms Gobbo continued to work with him on the Orman matter following the committal proceeding. The trial for Mr Orman had been

³⁹⁵⁴ Exhibit RC1808 'Themes-Corruption' document, 19 March 2014, 118, VPL.2000.0001.8360_0117; Exhibit RC0284 SML2598, 13-14 March 2008, 15-16, VPL.2000.0001.9236 @.9250-251.

³⁹⁵⁵ Exhibit RC0284 SML2598, 14 February 2008, 16, VPL.2000.0001.9236 @.9251; Exhibit RC0882 Mr Wolf diary, 13 February 2008, 30-33, VPL.2000.0001.0098 @.0127-01230; Exhibit RC0591 Detective Senior Sergeant Black, 14 March 2008, RCMP.0090.0001.0001 @.0335-0340.

³⁹⁵⁶ Exhibit RC0284 SML2598, 14 March 2008, 15, VPL.2000.0001.9236 @.9250; Exhibit RC1808 'Themes-Corruption' document, 19 March 2014, 118, VPL.2000.0001.8360_0117; Exhibit RC0281 ICR2958 (004), 15 February 2008, 44, VPL.2000.0002.0784.

³⁹⁵⁷ Exhibit RC0284 SML2598, 14 March 2008, 16, VPL.2000.0001.9236 @.9251.

³⁹⁵⁹ Exhibit RC0591 Mr Black diary, 14 March 2008, RCMP.0090.0001.0001 @.0337-.0340.

³⁹⁶⁰ Exhibit RC0284 SML2598, 14 March 2008, 19, VPL.2000.0001.9236 @.9254.

set down for later in 2008, however was vacated as Mr Vincent Benvenuto was charged as a co-accused in the murder and had to proceed through the Magistrates' Court committal stream before joining Mr Orman at trial. Mr Richter recalled that Ms Gobbo appeared at Directions and Administrative hearings in the Supreme Court on several occasions during this period.³⁹⁶¹

2928. OPP records, and Ms Gobbo's fee book indicate that Ms Gobbo appeared on behalf of Mr Orman at mentions in the Supreme Court on 13 August 2008 and 11 November 2008, and at a Directions hearing on 10 December 2008.³⁹⁶²
2929. Mr Richter recalled that Ms Gobbo left the Bar in early 2009. He was initially told this was due to poor health, but later learned that she had become a witness against Mr Paul Dale.³⁹⁶³
2930. Mr Orman was convicted following trial in September 2009. A number of aspects of the evidence concerned Mr Richter following the trial:
- Mr Thomas made two statements in which he referred to living at an address, at which he alleged admissions had been made to him by Mr Orman and Mr Veniamin. He confirmed this at the committal. The defence had obtained evidence demonstrating that it was not possible that Mr Thomas was living at that address at that time. For the first time at trial during examination in chief, Mr Thomas recalled he was not living at that address, but was living elsewhere³⁹⁶⁴
 - Mr Thomas had provided a description of a route it was said that Mr Orman had driven. The defence had obtained toll records which demonstrated that the murderer's vehicle had not passed any toll points. The defence were later provided with further evidence by the prosecution, aimed to demonstrate how it could have been that there were no video or toll records.³⁹⁶⁵
2931. In respect of this second matter, on 12 March 2008, Ms Gobbo had told her handlers that the defence were concerned about E-tag records and photographs of the car including the driver and passengers, which Mr Buick had not included on the brief of evidence. She said further that such records could be obtained as they were kept for seven years.³⁹⁶⁶ In his evidence to the Commission, Mr Buick was asked questions about this information provided by Ms Gobbo:

MS TITTENSOR: [W]as that something that was subsequently followed up on by you?

³⁹⁶¹ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 6 [23] – [24], RCMP1.0115.0001.0001 @.0006.

³⁹⁶² Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 13 August 2008, 69, OPP.0001.0004.0025 @.0093.

³⁹⁶³ Exhibit RC1898 Office of Public Prosecutions Victoria, PRISM database list of appearances by Ms Nicola Gobbo, 13 August 2008, 69, OPP.0001.0004.0025 @.0093.

³⁹⁶⁴ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 7 [26], RCMP1.0115.0001.0001 @.0007.

³⁹⁶⁵ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 8 [30], RCMP1.0115.0001.0001 @.0008.

³⁹⁶⁶ Exhibit RC0281 ICR2958 (008), 12 March 2008, 94, VPL.2000.0003.0834.

- MR BUICK: That was a key line of inquiry in that investigation.*
- MS TITTENSOR: Was that something that was followed up on after this point in time or was it being done before this?*
- MR BUICK: Yeah, it was ongoing. It was going before this.*
- MS TITTENSOR: Were e-TAG records checked after this point in time or before?*
- MR BUICK: I'm not sure. Well before I would think. Possibly after, but it was a difficult line of inquiry that required us to revisit CityLink a number of times for records.*

2932. Whilst Mr Richter indicated he had no evidence to substantiate his suspicions, he was left concerned at the time, and became deeply concerned in light of Ms Gobbo's known relationship with the police and Mr Thomas, that the police were engaged in unlawfully obtaining information about Mr Orman's defence and in the coaching of Mr Thomas as to the evidence he would give before a jury.³⁹⁶⁷

2933. Mr Richter stated:

To me, the Orman trial was always a source of deep misgivings and ruminations involving speculation about gross and possibly criminal breaches of duty and misconduct by a number of people. It came as a shattering revelation to me that Ms Gobbo, acting in concert with her handlers and others procured a corruption of our system of justice which resulted in a young man spending 12 years, thus far, in prison. I was aware that Orman had been terribly treated in prison because he refused a police/prosecution deal which would involve him creating evidence against Dominic Gatto. What I and Orman didn't know was that his Junior Counsel was a police informer seeking to manipulate him and was deceiving and sabotaging his Senior Counsel's efforts to defend him.³⁹⁶⁸

2934. It may well be that Mr Thomas did have a realisation in the absence of intervention by either the police or directly by Ms Gobbo, that he had not been living at the address which had been nominated by him. It may also be that the police independently determined to obtain the evidence in respect of the E-Tag. That said, the conduct of the police and Ms Gobbo gives rise to an erosion of the trust required between essential participants in the criminal justice system, which may lead to a suspicion of impropriety, regardless of whether or not there actually has been.

³⁹⁶⁷ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 7-8 [28]-[31], RCMPI.0115.0001.0001 @.0007-.0008.

³⁹⁶⁸ Exhibit RC0977 Statement of Mr Robert Richter, 25 November 2019, 8 [32], RCMPI.0115.0001.0001 @.0008.

2007 - 2019 – Orman’s Path to Justice

2935. On 22 June 2007, Mr Orman had been arrested, charged and remanded into custody.
2936. On 29 September 2009, he was found guilty of the murder of Mr Peirce and was sentenced to 20 years imprisonment, with a non-parole period of 14 years.³⁹⁶⁹
2937. In September 2010, Mr Orman was refused leave to appeal against his conviction.
2938. In February 2011, the High Court refused special leave to appeal.
2939. Shortly after this Mr Buick came back into contact with Ms Gobbo when he became the informant in the prosecution of Mr Paul Dale for offences against the ACC Act, in which Ms Gobbo was to be a witness. He had the following conversation with Ms Gobbo on 16 February 2011:³⁹⁷⁰

MS GOBBO: ... The High Court matter you went up to Canberra for last week, you know how that happened.

MR BUICK: Well, I know, you’ve said that the other day. I ---

MS GOBBO: Go and ask ---

MR BUICK: I thought that was my – I thought that was my hard work.

MS GOBBO: No. You go and ask the right people Boris – it was a very well hidden thing, that’s why Sandy White, Green and Peter Smith are exceptionally good ... detectives. However, one would have thought that after you do all of that, someone shakes your hand and says, “Thank you.”

MR BUICK: You got ... convicted for me.

MS GOBBO: You know. You don’t need me to say it for the tape.

MR BUICK: No, I was going to shake your hand if you said yes.

2940. In its judgement of 5 November 2018, which was published on 3 December 2018, the High Court handed down its findings as to Ms Gobbo’s conduct as a human source.³⁹⁷¹ This came after approximately three years of litigation in which Victoria Police and Ms Gobbo had sought to prevent disclosure by the DPP of Ms Gobbo’s human source role to a number of individuals, not including Mr Orman. The High Court said:

As Ginnane J and the Court of Appeal held, there is a clear public interest in maintaining the anonymity of a police informer, and so,

³⁹⁶⁹ *Orman v The Queen* [2019] VSCA 163 [1]

³⁹⁷⁰ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, February 2011, 75, VPL.0100.0068.0021 @.0095.

³⁹⁷¹ *AB (a pseudonym) v CD (a pseudonym); EF (a pseudonym) v CD (a pseudonym)* [2018] HCA 58

where a question of disclosure of a police informer's identity arises before the trial of an accused, and the Crown is not prepared to disclose the identity of the informer, as is sometimes the case, the Crown may choose not to proceed with the prosecution or the trial may be stayed.

Here the situation is very different, if not unique, and it is greatly to be hoped that it will never be repeated. EF's actions in purporting to act as counsel for the Convicted Persons while covertly informing against them were fundamental and appalling breaches of EF's obligations as counsel to her clients and of EF's duties to the court. Likewise, Victoria Police were guilty of reprehensible conduct in knowingly encouraging EF to do as she did and were involved in sanctioning atrocious breaches of the sworn duty of every police officer to discharge all duties imposed on them faithfully and according to law without favour or affection, malice or ill-will. As a result, the prosecution of each Convicted Person was corrupted in a manner which debased fundamental premises of the criminal justice system. It follows, as Ginnane J and the Court of Appeal held, that the public interest favouring disclosure is compelling: the maintenance of the integrity of the criminal justice system demands that the information be disclosed and that the propriety of each Convicted Person's conviction be re-examined in light of the information. The public interest in preserving EF's anonymity must be subordinated to the integrity of the criminal justice system.³⁹⁷²

2941. On 4 February 2019, Mr Orman, having exhausted his appeal rights, filed a petition of mercy with the Attorney-General seeking a referral to the Court of Appeal pursuant to section 327 of the *Criminal Procedure Act 2009*.
2942. On 25 June 2019, the Attorney-General advised the Chief Justice she had decided to refer the whole case to the Court of Appeal, in effect providing for the Court of Appeal to hear and determine the case as if it were an appeal.
2943. On 26 July 2019, the Court of Appeal determined the matter, quashing Mr Orman's conviction for the murder of Mr Peirce.³⁹⁷³ In its judgement, the Court noted a number of factual concessions by the Director, including that:
- (a) *from as early as October 2002, Ms Gobbo represented a person Mr Thomas , on whose evidence the murder case against Mr Orman substantially depended. Ms Gobbo continued to represent Mr Thomas from time to time until 8 August 2008;*
 - (b) *on 11 October 2006, Ms Gobbo was engaged by Mr Orman to represent him in relation to charges he was then facing in Queensland. She continued to represent him from time to time until at least 10 December 2008;*
 - (c) *on 9 November 2007, at a time when she was engaged to act on behalf of Mr Orman, Ms Gobbo improperly took active steps to ensure that Mr Thomas gave evidence against Mr Orman in the murder trial.³⁹⁷⁴*
2944. The Court also noted the concession by the Director that there had been a substantial miscarriage of justice, which it regarded as properly made. It

³⁹⁷² *AB (a pseudonym) v CD (a pseudonym); EF (a pseudonym) v CD (a pseudonym)* [2018] HCA 58, [9]-[10]

³⁹⁷³ *Orman v The Queen* [2019] VSCA 163

³⁹⁷⁴ *Orman v The Queen* [2019] VSCA 163, [8]

said that because of that concession it had not been necessary for the court to undertake any factual investigation of its own.³⁹⁷⁵

2945. The judgement went on:

The Director concedes that Ms Gobbo, while acting for Mr Orman, pursued the presentation of the principle evidence against him on the charge of murder. Self-evidently, that conduct was a fundamental breach of her duties to Mr Orman and to the Court.

...

On the facts as conceded, Ms Gobbo's conduct subverted Mr Orman's right to a fair trial, and went to the very foundations of the system of criminal trial. There was, accordingly, a substantial miscarriage of justice. The appeal must therefore be allowed.

2946. Mr Orman spent over 12 years in custody before his conviction was quashed.

Part 5 – Subpoenas & Disclosure in Trials of Horty Mokbel and Bayeh

Background

Detective Johns Involvement in Posse and Knowledge of Ms Gobbo's Role

2947. Detective Sergeant Tim Johns joined Victoria Police in 1999. By 2005 he was a Detective Senior Constable in the MDID. In February 2006 he and his team, led by Detective Sergeant Jason Kelly transferred from the MDID to the Purana taskforce, to support the other investigative team focussing on major drug offences, led by Sergeant Dale Flynn.

2948. Mr Johns was involved in the arrest of many of the Operation Posse targets including ██████████, Toreq Bayeh, Cooper, Agrum, Milad Mokbel, Keene and Horty Mokbel. He was the informant in prosecutions of Messrs Ketch, Bayeh, and Horty Mokbel.³⁹⁷⁶

2949. Mr Johns assisted in the operational activities on 22 April 2006 when Mr Cooper and Mr Agrum were arrested. His interview of Mr Agrum was suspended when Mr Agrum asked to speak to Ms Gobbo at the commencement. He did not further participate in that interview, but he subsequently learned that Ms Gobbo had attended the St Kilda Road Police Station and provided legal advice to both Messrs Cooper and Agrum. Mr Johns found out on the day after the arrests that Ms Gobbo was an informer and on that day or shortly thereafter, he found out that it was she who had provided police with the information about the laboratory at Strathmore that had enabled police to make the arrests.³⁹⁷⁷

³⁹⁷⁵ *Orman v The Queen* [2019] VSCA 163, [9]-[10]

³⁹⁷⁷ Transcript of Sergeant Tim Johns, 20 February 2020, 14654-14655, TRN.2020.02.20.1.P.

2950. Even as a relatively junior Detective, Mr Johns thought that the circumstance of barrister who was a human source and who provided legal advice to suspects that she helped arrest was extraordinary, and he discussed this with his colleagues.³⁹⁷⁸ He agreed that he considered that it was 'absolutely a conflict of interest'.³⁹⁷⁹ He said in his statement to the Commission that he assumed that Ms Gobbo's handlers and his own superior officers had given consideration to the question of whether it was proper to act upon the information Ms Gobbo. He also assumed that legal advice had been obtained about it. He may have had discussions with his sergeant, Mr Jason Kelly about it but he could not specifically recall any.³⁹⁸⁰
2951. Mr Johns was aware that Ms Gobbo had provided legal advice to other people Purana had arrested including Messrs Keene, [REDACTED] and Milad Mokbel, and that in October 2006, Ms Gobbo had been provided with briefs of evidence compiled by Purana investigators against Mr Cooper and co-accused, before they were served upon the accused.
2952. Mr Johns was aware of the concerns held by Ms Gobbo's SDU handlers that if and when Mr Cooper was required to give evidence in committal proceedings, there was a risk that Ms Gobbo's role could be exposed. On 29 June 2007, in the lead up to the committal proceeding of Mr Milad Mokbel and his co-accused on 2 July 2007, Mr Johns was present at a meeting with Messrs Sandy White, O'Brien, Flynn, Rowe and Kelly, in which there was a discussion about redaction of police notes revealing Ms Gobbo's attendance on the night of the arrest and of public interest immunity claims.³⁹⁸¹

Prosecution of Horty Mokbel and Toreq Bayeh

2953. Mr Johns was also involved in the arrest of Mr Horty Mokbel on 13 April 2007. He was the informant in that prosecution and gave evidence at the committal proceeding in November 2007. In the course of that committal, a question of public interest immunity arose for consideration, and Mr Johns was required to swear a confidential affidavit to enable the court to determine whether the claim should be upheld.³⁹⁸² Albeit that this matter concerned police methodology and not informers, he was therefore aware that questions of public interest immunity were for the courts to determine.
2954. Mr Mokbel was committed, and went to trial alongside Mr Toreq Bayeh. The joint trial was heard in September 2008 and Mr Cooper was a significant witness against both accused.
2955. In the lead up to the trial, two subpoenas were issued and directed to the Chief Commissioner for the production of documents relating to Mr Cooper.³⁹⁸³ The legal defence team for Mr Horty Mokbel comprised Mr

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³⁹⁸¹ See paragraph 2738 above.

³⁹⁸² Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 10 [70], VPL.0014.0118.0001 @.0010; Exhibit RC1336 Subpoena in The Supreme Court of Victoria matter, *Queen v Horty Mokbel*, 12 August 2008, VPL.0098.0011.0001.

³⁹⁸³ Exhibit RC1336 Subpoena in The Supreme Court of Victoria matter, *Queen v Horty Mokbel*, 12 August 2008, VPL.0098.0011.0001; Exhibit RC1342 Letter to Subpoena Management unit from Grigor Lawyers, 1 September 2008, VPL.6161.0008.7808.

Alistair Grigor and barristers Stephen Shirrefs and Colin Mandy.³⁹⁸⁴ Mr Johns, as the informant was obliged to gather together the documents encompassed by the subpoenas, and produce them to the Supreme Court Registry in accordance with requirements of the subpoenas, on behalf of the Chief Commissioner. Albeit that he was nominally responsible, the responsibility for the compliance or failure to comply with the subpoena did not rest solely with him, as other members of Victoria Police were aware of and involved in the compliance with the subpoenas.

12 August 2008 – The First Subpoena

Records Sought by the Subpoena

2956. On 12 August 2008, a subpoena was issued by Grigor Lawyers and served on the Chief Commissioner.³⁹⁸⁵ The return date of the subpoena was 18 August 2008.³⁹⁸⁶ That subpoena sought the production of:

All notes, memorandums, information reports and/or transcripts of conversations and/or interviews between either of Detective Sergeant Dale Flynn, Detective Sergeant Jason Kelly, Detective Inspector James O'Brien, Detective Senior Constable Johns and:

(a) Cooper;

(b) [REDACTED];

*That occurred in the course of investigations being conducted by the Victoria Police between 22 April 2006 until the service of the subpoena.*³⁹⁸⁷

2957. It is likely that the defence lawyers were seeking to obtain any material in the nature of offers, promises, benefits or inducements made to Mr Cooper that might cast doubt upon his credibility as a witness or the propriety of the police investigation. Investigators such as Mr Johns and Mr Flynn would undoubtedly have been alive to these matters.

2958. Subject to any available argument about the terms or breadth of the subpoena or about public interest immunity, the subpoena should have resulted in the production of notes (in particular, the notes of Messrs Flynn and O'Brien) amongst other materials, which (if unredacted for public interest immunity) would likely to have made it clear that Ms Gobbo's involvement with investigators and Mr Cooper on 22 April 2006 and thereafter, was not simply that of an independent legal advisor to Mr Cooper.

2959. The documents of particular concern to investigators concerned the events of 22 April, including the notes of Messrs O'Brien and Flynn, and Mr Flynn's interview of Mr Cooper that night.

³⁹⁸⁴ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [72], VPL.0014.0118.0001 @.0011.

[REDACTED]; Exhibit RC1336 Subpoena in The Supreme Court of Victoria matter, *Queen v Horty Mokbel*, 12 August 2008, VPL.0098.0011.0001.

Response to the Subpoena

2960. On 13 August 2008, Mr Johns received an email indicating that he had been nominated to deal with the subpoena.³⁹⁸⁸ The email contained a pro-forma instruction advising Mr Johns that he was responsible for the provision of the documents directly to the registrar of the Supreme Court, and it noted that a copy of the email was forwarded to Mr Johns' officer in charge.
2961. By that stage, he and other members of Victoria Police were already aware of the subpoena. In his evidence before the Commission Mr Johns said that he believed he knew about the subpoena a day earlier, on 12 August 2008.³⁹⁸⁹ Mr Johns held this belief because he recalled having dialogue with Mr Grigor about it on that day.³⁹⁹⁰ His recollection is supported by Mr Flynn's diary, in which he noted that a subpoena from Grigor lawyers regarding the Horthy Mokbel trial had been received, and it sought notes etc regarding Messrs Cooper and another person from 22 April 2006 until today's date. Mr Flynn sent a copy of the subpoena to the Subpoena management unit. He also noted that he had spoken to Mr Johns about the same and sent him a copy of the subpoena and Mr O'Brien's notes.³⁹⁹¹ Mr Johns accepted that he had a discussion with Mr Flynn about the notes of Mr O'Brien.³⁹⁹²
2962. On 13 August 2008, Mr Flynn spoke to Ms Gobbo's handler, Mr Green. There was a discussion about the subpoena – it was noted in an ICR that there were two issues concerning Gobbo's involvement; 'One on 22/6 (sic) day of Cooper arrest. Two, 1 or 2 weeks after arrests Cooper met source at VPC briefly'. It seems that Mr Green offered Mr Flynn advice that 'care to be taken' in the provision of notes in relation to the first meeting, but there was no issue with the second meeting after arrests.³⁹⁹³
2963. Mr Green then informed Mr Sandy White of the subpoena³⁹⁹⁴ and Mr Sandy White noted in the SML for Ms Gobbo that the subpoena called for all conversations with Mr Cooper on the day of the arrest.³⁹⁹⁵ The fact that this was noted in Ms Gobbo's file indicates the concern that compliance with the subpoena created a risk of exposing Ms Gobbo.
2964. Shortly after the discussion between Messrs Green and Flynn, Mr Flynn had a conference call with Messrs Shirrefs and Grigor in which they discussed the subpoena amongst other matters. The notes suggest that Mr Shirrefs was seeking records only of meetings not already provided and unedited copies of transcripts of Mr Cooper's interviews. Following the meeting, Mr Flynn contacted Mr Johns and asked him to compare the 'sanitised' and 'non-sanitised' versions of the record of interview.³⁹⁹⁶ It is likely that Mr Flynn had already provided his 'sanitised notes' of the 22 April meeting to lawyers for Mr Horthy Mokbel at committal proceedings.

³⁹⁸⁸ Exhibit RC1697 Email from Subpoena Management to Tim Johns, 13 August 2008, VPL.6161.0006.1389,.

³⁹⁸⁹ Transcript of Sergeant Tim Johns, 20 February 2020, 14664, TRN.2020.02.20.1.P.

³⁹⁹⁰ Transcript of Sergeant Tim Johns, 20 February 2020, 14664, TRN.2020.02.20.1.P.

³⁹⁹¹ Exhibit RC0560 Mr Dale Flynn diary, 12 August 2008, 61, RCMP.0062.0002.0002 @.0061.

³⁹⁹² Transcript of Sergeant Tim Johns, 20 February 2020, 14669, TRN.2020.02.20.1.P.

³⁹⁹³ Exhibit RC0281 ICR2958 (033), 13 August 2020, 555, VPL.2000.0003.1295.

³⁹⁹⁴ Exhibit RC0305 Mr Sandy White diary, 13 August 2008, 319, RCMP.0092.0001.0001 @.0319.

³⁹⁹⁵ Exhibit RC0284 SML2958, 13 August 2008, 39, VPL.2000.0001.9236 @.9274.

³⁹⁹⁶ Exhibit RC0560 Mr Dale Flynn diary, 13 August 2008, 62, RCMP.0062.0002.0002 @.0062.

2965. Mr Flynn called Mr Green back and left a message; 'matter re second date/meeting resolved after call to Grigor solicitors was made. They don't want every meet and greet details'.³⁹⁹⁷ It is submitted that this call would certainly have given comfort to Mr Flynn that he need not produce the note of the meeting of 14 May 2006.
2966. On the following day, Mr Flynn photocopied and 'sanitised' notes, presumably of meetings that had not already been provided.³⁹⁹⁸
2967. On 13 and 14 August 2008, amongst other duties, Mr Johns worked on matters relating to the subpoena.³⁹⁹⁹
2968. Acting Inspector Luke Charlesworth from the Subpoena Management Unit had become aware of potential 'PII issues' associated with the subpoena and the morning of Friday 15 August he emailed Mr Johns pointing to the necessity to brief a barrister 'asap for Monday'. Given the discussions that had occurred, Mr Johns was apparently confident enough that there would be no need to engage a barrister, as he did not respond until Saturday afternoon, by which time he had determined that there were no longer any PII issues and the subpoena would be complied with on the Monday.⁴⁰⁰⁰ Mr Johns noted that the email exchange referred to 'checki[ng] the transcript'.⁴⁰⁰¹ Mr Johns was of the belief that this referred to checking the transcript of Mr Cooper's interview of 22 April 2006, the day of his arrest.⁴⁰⁰²
2969. On 15 August, Mr Johns' diary records that he provided copies of Cooper's 'I/V' to Mr Flynn.⁴⁰⁰³
2970. On 16 October 2008, Mr Johns' diary records that he spoke to Mr Grigor about the subpoena and that Mr Grigor stated he was 'happy with full transcript of interview with Mr Cooper'.⁴⁰⁰⁴ In his evidence to the Commission, Mr Johns stated that his memory was that he spoke to Mr Grigor to clarify exactly what he was seeking and Mr Grigor said he was 'mainly after Mr Cooper's transcript of interview'.⁴⁰⁰⁵
2971. In his evidence to the Commission, Mr Johns indicated that whilst he did not have a specific memory, he was of the view that he informed Mr Grigor that there was a lot of material that would answer this subpoena which would potentially be relevant, but that he wouldn't be able to get it to him by the

³⁹⁹⁷ Exhibit RC0281 ICR2958 (033), 13 August 2020, 555, VPL.2000.0003.1295; Exhibit RC0560 Mr Dale Flynn diary, 13 August 2008, 63, RCMP.0062.0002.0002 @.0063.

³⁹⁹⁸ Exhibit RC0560 Mr Dale Flynn diary, 13 August 2008, 63, RCMP.0062.0002.0002 @.0063.

³⁹⁹⁹ Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 3 [16], VPL.0014.0118.0021 @.0023; Exhibit RC1340 Sergeant Tim Johns diary, 13 August 2008, 31, VPL.0005.0249.0146 @.0176; Exhibit RC1340 Sergeant Tim Johns diary, 14 August 2008, 3, VPL.0005.0249.0192 @.0194.

⁴⁰⁰⁰ Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 3 [16], VPL.0014.0118.0021 @.0023; Exhibit RC1660 Email chain involving Tim Johns and Luke Charlesworth, 15-18 August 2008, VPL.6161.0006.1802.

⁴⁰⁰¹ Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 3 [16], VPL.0014.0118.0021 @.0023.

⁴⁰⁰² Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 3 [16], VPL.0014.0118.0021 @.0023.

⁴⁰⁰³ Exhibit RC1340 Sergeant Tim Johns diary, 15 August 2008, 4, VPL.0005.0249.0192 @.0195.

⁴⁰⁰⁴ Exhibit RC1340 Sergeant Tim Johns diary, 16 August 2008, 3, VPL.0005.0249.0186 @.0188.

⁴⁰⁰⁵ Transcript of Sergeant Tim Johns, 20 February 2020, 14666, TRN.2020.02.20.1.P.

trial.⁴⁰⁰⁶ Mr Johns did not recall if he told Mr Grigor that all the material would be relevant.⁴⁰⁰⁷

2972. Mr Johns also agreed that he was of the view it was appropriate not to produce diary entries which revealed that Ms Gobbo had been involved in this investigation.⁴⁰⁰⁸ However Mr Johns denied that he attempted to suggest to Mr Grigor that there wasn't material available, or which would be of assistance save for the record of interview.⁴⁰⁰⁹
2973. Mr Johns indicated that he was aware that Mr Flynn would have relevant diary entries of communications with Mr Cooper that were covered by this subpoena.⁴⁰¹⁰ However, Mr Johns indicated that he wasn't aware that Ms Gobbo was present during conversations between Mr Flynn and Mr Cooper.⁴⁰¹¹ The 14 May 2006 entry was put to Mr Johns and he agreed that such an entry should have been produced in accordance with the subpoena of 12 August 2008. He believed however that it was not produced.⁴⁰¹² When asked why he thought it was not, he cited his discussion with Mr Grigor, on 16 October 2008.⁴⁰¹³
2974. It is likely that defence counsel ultimately obtained 'sanitised' versions of Mr Flynn's notes of 22 April 2006, that did not reveal the complete picture, and it is probable that the 14 May 2006 note was not provided because of the risk of Ms Gobbo's duplicitous role with respect to Mr Cooper being exposed.

Submissions concerning the 12 August 2008 Subpoena

2975. **On the evidence, it is open to the Commissioner to find that in answer to the 12 August 2008 subpoena, Victoria Police should have produced to the Court all relevant notes that revealed communications concerning Ms Gobbo between Mr Flynn and Mr Cooper on numerous occasions in the days following the arrest on 22 April, and the attendance by Ms Gobbo on 14 May 2006 upon Mr Cooper when statements were being taken from Mr Cooper whilst in custody and, if public interest immunity was to be claimed, Victoria Police should have allowed that claim to be determined by the Court.**

2976. **On the evidence, it is open to the Commissioner to find that rather than disclose relevant materials pursuant to the 12 August 2008 subpoena, the evidence demonstrates that instead the investigators, with the assistance of the SDU, sought to improperly 'sanitize' notes and, without informing defence lawyers that there may be additional**

⁴⁰⁰⁶ Transcript of Sergeant Tim Johns, 20 February 2020, 14667, TRN.2020.02.20.1.P.

⁴⁰⁰⁷ Transcript of Sergeant Tim Johns, 20 February 2020, 14667, TRN.2020.02.20.1.P.

⁴⁰⁰⁸ Transcript of Sergeant Tim Johns, 20 February 2020, 14668, TRN.2020.02.20.1.P.

⁴⁰⁰⁹ Transcript of Sergeant Tim Johns, 20 February 2020, 14668, TRN.2020.02.20.1.P.

⁴⁰¹⁰ Transcript of Sergeant Tim Johns, 20 February 2020, 14665, TRN.2020.02.20.1.P.

⁴⁰¹¹ Transcript of Sergeant Tim Johns, 20 February 2020, 14665, TRN.2020.02.20.1.P.

⁴⁰¹² Transcript of Sergeant Tim Johns, 20 February 2020, 14666, TRN.2020.02.20.1.P.

⁴⁰¹³ Transcript of Sergeant Tim Johns, 20 February 2020, 14666, TRN.2020.02.20.1.P.

materials that might be relevant, improperly purported to reach an 'agreement' with them, in order to limit the production of materials.

2977. Whilst the defence lawyers who entered into such an agreement could not have guessed at what had actually occurred, it is submitted that the police officers would have known that any impropriety or irregularity on the part of the investigators, in obtaining evidence used to prosecute Messrs Horty Mokbel and Bayeh would have been a matter of relevance in their criminal prosecutions.
2978. It is submitted that the Purana member, Messrs Flynn and Johns, and the SDU members, Messrs Sandy White and Green, must have known that the deployment of Ms Gobbo against her client in order that he might be compelled to give evidence against other people including Mr Milad Mokbel was, improper if not unlawful. They would have known that the circumstances, in which Ms Gobbo assisted police to have Mr Cooper 'roll' on 22 April, were extraordinary, given that she was the human source who helped police to arrest him. Even Mr Johns, the junior detective appreciated that. However it may be that Mr Johns was not aware of the contents of Mr Flynn's unredacted notes.
2979. Mr Flynn was examined in evidence about the 14 May 2006 note and matters arising from it.⁴⁰¹⁴ He was asked whether the note was provided to the defence or the Court, and his initial response was, 'Not that I'm aware of, I'm not sure'.⁴⁰¹⁵ Asked why the notes were never provided, Mr Flynn said, 'I don't know whether I was ever asked'.⁴⁰¹⁶ Mr Flynn ultimately conceded that it is more likely than not that this note was not provided or a redacted copy was provided, that is with the meeting blacked out.⁴⁰¹⁷ The above evidence, in combination with the fact that Mr Shirrefs (oblivious to Ms Gobbo's role) had conceded that he did not want every meet and greet details, demonstrates that the notes were not produced in answer to the subpoena.
2980. Mr Flynn knew that if the defence and the Judge became aware of Ms Gobbo's role, there would be adverse consequences to, at the very least, the prosecution case. When asked questions concerning the hypothetical reaction of a judge who found out the true state of affairs, Mr Flynn agreed that potentially his or her wig might have hit the roof. He also said: 'Well, we knew it would create a lot of issues'.⁴⁰¹⁸ The reluctance on the part of Mr Flynn to submit the question of Ms Gobbo's role as a human source to a court in order to determine the PII question,⁴⁰¹⁹ should be considered in the light of those answers. It is submitted that the reluctance was not simply the concern that Ms Gobbo might be put at risk of harm by exposure, but also there would be significant criticism of police and the potential for evidence to be ruled inadmissible.

⁴⁰¹⁴ Transcript of Inspector Dale Flynn, 1 October 2019, 6949-6954, RC_MPI_01Oct19_provisional.

⁴⁰¹⁵ Transcript of Inspector Dale Flynn, 1 October 2019, 6952, RC_MPI_01Oct19_provisional.

⁴⁰¹⁶ Transcript of Inspector Dale Flynn, 1 October 2019, 6953, RC_MPI_01Oct19_provisional.

⁴⁰¹⁷ Transcript of Inspector Dale Flynn, 1 October 2019, 6954, RC_MPI_01Oct19_provisional.

⁴⁰¹⁸ Transcript of Inspector Dale Flynn, 1 October 2019, 6946-6967, RCMPI_01Oct19_provisional.

⁴⁰¹⁹ Transcript of Inspector Dale Flynn, 1 October 2019, 6965-6966, RCMPI_01Oct19_provisional.

2981. When it was suggested that the reluctance indicated a lack of trust in the court processes for determining such questions, Mr Flynn said, 'I don't think it's a matter of not trusting anything, I think it's just a culture of keeping, even within the organisation, keeping only those who have to know in the knowledge ...'.⁴⁰²⁰ Regardless of that culture, it is no answer when the fact that she was an informer was of potential relevance to the trial of Messrs Horthy Mokbel and Bayeh. They were entitled to a fair trial.

2982. On the evidence, it is open to the Commissioner to find that in dealing with the 12 August 2008 subpoena Mr Flynn:

2982.1. knew that subjecting his notes to the scrutiny of court processes, either in a claim for public interest immunity, or simply by providing to the defence, would have exposed Ms Gobbo's conduct, and the connivance of Victoria Police in that conduct

2982.2. was aware that Mr Cooper was oblivious of Ms Gobbo's role as a human source

2982.3. was aware that Mr Cooper was deprived of independent legal representation when he was arrested and agreed to assist police

2982.4. knew that these matters were of relevance in any criminal proceedings, including the trial of Mr Horthy Mokbel, in which Mr Cooper was a witness

2982.5. as an experienced Detective, knew that a suggestion of impropriety or illegality on the part of police in the obtaining of the evidence from Mr Cooper could be relevant to a criminal proceeding

2982.6. knew that the documents sought by the subpoena could have been relied upon by defence to challenge the admissibility of evidence produced by the Crown, in particular, the evidence of Mr Cooper.

1 September 2008 – The Second Subpoena

Police Response to The Subpoena – Detectives Flynn, Johns and Fox

2983. In late August 2008, Mr Horthy Mokbel's lawyers requested unredacted versions of 16 IRs relating to Mr Cooper for the purposes of the impending trial.⁴⁰²¹ Many if not all of the IRs recorded information provided by Ms Gobbo at a time she was retained to act for Mr Cooper.⁴⁰²² Whilst she was obviously not named in the IRs, the information contained in them, combined with the particulars about when the information had been received

⁴⁰²⁰ Transcript of Inspector Dale Flynn, 1 October 2019, 6966, RCMP1_01Oct19_provisional.

⁴⁰²¹ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [72], VPL.0014.0118.0001 @.0011.

⁴⁰²² Exhibit RC0305 Mr Sandy White diary, 2 September 2008, 372, RCMP1.0092.0001.0001 @.0372; see also Exhibit RC0507 Mr Fox diary, 2 September 2008, 7, VPL.2000.0001.3989 @.3995.

by police, had the clear potential to reveal to people such as Messrs Cooper and Horty Mokbel, the fact that Ms Gobbo was the source of the information.

2984. On 25 August 2008, Mr Fox's diary records that he had a discussion with Mr Rowe regarding these IRs.⁴⁰²³ The diary note records:

- *Defence have issue with dates blacked out*
- *Advised 'Date Submitted' should not be blacked out*
- *'Date Received' on all IR's must remain blacked out*
- *Understood*
- *Rowe to update Tim Johns*
- *The IR's in question are the same as those sensitised and already provided to defence for Kabalan Mokbel court hearing.*⁴⁰²⁴

2985. Between 27 August and 29 August 2008, Mr Johns and Mr Fox communicated with each other about means of redacting the IRs (in particular, the details as to when the information was received and when the IRs were submitted), so as to reduce the chance that Ms Gobbo would be identified as the supplier of the information.⁴⁰²⁵ In his evidence to the Commission, Mr Johns admitted that there was quite a bit of discussion about making sure these IRs were appropriately redacted so they wouldn't identify Ms Gobbo.⁴⁰²⁶

2986. By 1 September 2008, discussions between the police and Mr Shirrefs had not resulted in a satisfactory solution with respect to the IRs and Mr Shirrefs indicated that he could not examine Mr Cooper until the IR issue was resolved.⁴⁰²⁷

2987. On 1 September 2008, Mr Johns spoke to junior counsel for Mr Horty Mokbel, Colin Mandy, about the IRs that had been sought.⁴⁰²⁸ Mr Mandy informed Mr Johns a subpoena for their production would be issued.⁴⁰²⁹ Mr Johns understood that this was because Mr Horty Mokbel's lawyers were not satisfied with the redacted versions that had been provided.⁴⁰³⁰

⁴⁰²³ Exhibit RC0507 Mr Fox diary, 25 August 2008, 3, VPL.2000.0001.3980 @.3982.

⁴⁰²⁴ Exhibit RC0507 Mr Fox diary, 25 August 2008, 3, VPL.2000.0001.3980 @.3982.

⁴⁰²⁵ Exhibit RC1699 Email from Tim Johns to Mr Fox, 27 August 2008, VPL.6161.0013.4828; Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [73], VPL.0014.0118.0001 @.0011; Exhibit RC1340 Sergeant Tim Johns diary, 28 August 2008, 74, RCMP.0144.0001.0001 @.0074; Exhibit RC0507 Mr Fox diary, 29 August 2008, 9, VPL.2000.0001.3980 @.3988.

⁴⁰²⁶ Transcript of Sergeant Tim Johns, 20 February 2020, 14673, TRN.2020.02.20.1.P.

⁴⁰²⁷ Exhibit RC0507 Mr Fox diary, 1 September 2008, 2, VPL.2000.0001.3989 @.3990.

⁴⁰²⁸ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [75], VPL.0014.0118.0001 @.0011; Exhibit RC1340 Sergeant Tim Johns diary, 1 September 2008, 76, RCMP.0144.0001.0001 @.0076; Transcript of Sergeant Tim Johns, 20 February 2020, 14675, TRN.2020.02.20.1.P.

⁴⁰²⁹ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [75], VPL.0014.0118.0001 @.0011; Exhibit RC1340 Sergeant Tim Johns diary, 1 September 2008, 76, RCMP.0144.0001.0001 @.0076; Transcript of Sergeant Tim Johns, 20 February 2020, 14675, TRN.2020.02.20.1.P.

⁴⁰³⁰ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [75], VPL.0014.0118.0001 @.0011; Exhibit RC1340 Sergeant Tim Johns diary, 1 September 2008, 76, RCMP.0144.0001.0001 @.0076.

2988. Later that day, Grigor Lawyers sent a letter attaching a subpoena requesting production of 'All information and reports relating to or touching upon Cooper and his activities in the period of November 2004 to April 2006' to the Subpoena Management Unit.⁴⁰³¹ The letter attaching the subpoena also stated that 'we also wish to indicate that some of the material requested may be obtainable from Detective Sergeant Dale Flynn at the St Kilda Road Drug Taskforce'.⁴⁰³² It is likely that the subpoena was issued for the purpose of ensuring that police were required to produce unredacted versions of the 16 IRs to the trial judge to enable her to form a view as to the claim being made in relation to them.⁴⁰³³
2989. Nonetheless, it is submitted that it is quite apparent that, given the significant amount of investigative information and reports that Purana and the SDU had amassed 'touching upon Cooper and his activities' in the period in which it had been investigating him, the 16 IRs were a small part of the documentation that could and should have been provided. The SDU alone had significant amounts of material, which fell within the ambit of the subpoena, as did Purana.

The SDU become Involved Again

2990. Once again, the SDU became involved in court processes where there was a risk of exposure of Ms Gobbo's role as a human source. It seems that following his discussion with Mr Mandy, Mr Johns contacted Mr Fox and discussed the necessity to assess the IRs.⁴⁰³⁴ Later that night Mr Fox made a note in his diary that he and Mr Green were going through the 'x3838 IRs' in relation to the subpoena.⁴⁰³⁵ Mr Fox made a note of the relevant IRs that had been highlighted by Mr Shirrefs for police to review.⁴⁰³⁶ He also contacted Mr Sandy White to keep him apprised of the matter. Mr Sandy White made the following entry in his diary on the morning of 2 September:

Call to Fox re PII re 3838 IRs

Further sanitised IRs re Cooper. Will take same to court tomorrow and Purana have sought authority to brief Counsel. Most of IRs reveal information known only to [Cooper] or Horty [Mokbel] and will compromise HS (Ms Gobbo).⁴⁰³⁷

Engagement of an Independent Barrister

2991. On 2 September 2008, the subpoena was formally assigned to Mr Johns to manage and he again spoke to Mr Charlesworth regarding the 'IR

⁴⁰³¹ Exhibit RC1342 Letter to Subpoena Management unit from Grigor Lawyers, 1 September 2008, 6, VPL.6161.0008.7808 @.7813.

⁴⁰³² Exhibit RC1342 Letter to Subpoena Management unit from Grigor Lawyers, 1 September 2008, 2, VPL.6161.0008.7808 @.7809.

⁴⁰³³ Exhibit RC1331 Transcript of proceedings, *The Director of Public Prosecutions v Horty Mokbel and Toreq Bayeh* (Supreme Court of Victoria, Curtain J, 3 September 2008), 754, VPL.0005.0273.0001 @.0004.

⁴⁰³⁴ Exhibit RC1340 Sergeant Tim Johns diary, 1 September 2008, 76, RCMP.0144.0001.0001 @.0076.

⁴⁰³⁵ Exhibit RC0507 Mr Fox diary, 1 September 2008, 2, VPL.2000.0001.3989 @.3990.

⁴⁰³⁶ Exhibit RC0507 Mr Fox diary, 1 September 2008, 2, VPL.2000.0001.3989 @.3990.

⁴⁰³⁷ Exhibit RC0305 Mr Sandy White diary, 2 September 2008, 372, RCMP.0092.0001.0001 @.0372; see also Exhibit RC0507 Mr Fox diary, 2 September 2008, 7, VPL.2000.0001.3989 @.3995.

Subpoena'.⁴⁰³⁸ Mr Charlesworth emailed Ms Kirsty McIntyre, from the VGSO, cc'ing Ms Erica Fechner and Mr Johns, advising her that Mr Johns was currently compiling an objection schedule to the subpoena and he was requesting authorisation to brief Mr Gerard Maguire in relation to the subpoena.⁴⁰³⁹

2992. Later that day, Mr Johns sent Mr Charlesworth⁴⁰⁴⁰ an objections schedule.⁴⁰⁴¹ One reason listed for the sanitising of the material to be provided under the subpoena was a PII claim relating to the release of information that could lead to the identification of human sources.⁴⁰⁴²
2993. On 2 September Mr Johns attended the chambers of Mr Ronald Gipp, barrister, for the purposes of instructing him and preparing a confidential affidavit for the court.⁴⁰⁴³ In his statement to the Commission, Mr Johns indicated that he was of the belief that the claims related to the identity of human sources.⁴⁰⁴⁴ He also indicated that whilst Ms Gobbo was not mentioned by name, he was aware that her identity was relevant to part of that claim.⁴⁰⁴⁵ However, he did not tell Mr Gipp that Ms Gobbo was the informer.⁴⁰⁴⁶ In his evidence to the Commission, Mr Johns indicated that he did not tell Mr Gipp the identity of any human sources involved whilst preparing the affidavits.⁴⁰⁴⁷
2994. Mr Johns contacted Mr Flynn in the afternoon of 2 September and informed him that he was required in the Supreme Court the following day in relation to the subpoena.⁴⁰⁴⁸ Shortly after this call Mr Flynn contacted Mr Green, one of Ms Gobbo's handlers.⁴⁰⁴⁹

PII Argument about the IRs

2995. In the morning of 3 September 2008, the 16 redacted IRs were provided by Mr Fox to Mr Johns via email.⁴⁰⁵⁰ The email noted that they have been re-

⁴⁰³⁸ Transcript of Sergeant Tim Johns, 20 February 2020, 14675, TRN.2020.02.20.1.P; Exhibit RC1698 Email from Subpoena Management Unit to Tim Johns, 2 September 2008, VPL.6161.0008.6359; Exhibit RC1340 Sergeant Tim Johns diary, 2 September 2008, 25, RCMPI.0144.0001.0001 @.0056.

⁴⁰³⁹ Exhibit RC1688 Email from Luke Charlesworth to Kirsty McIntyre copying Tim Johns, 2 September 2008, VPL.6161.0008.7807; Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 3-4 [20], VPL.0014.0118.0021 @.0023-.0024; Transcript of Sergeant Tim Johns, 20 February 2020, 14675, TRN.2020.02.20.1.P;.

⁴⁰⁴⁰ Exhibit RC1700 Email from Tim Johns to Luke Charlesworth attaching Objections Schedule, 2 September 2008, VPL.6161.0013.0845.

⁴⁰⁴¹ Exhibit RC1842 Objections Schedule document, 2 September 2008, VPL.6161.0013.0846.

⁴⁰⁴² Exhibit RC1842 Objections Schedule, 2 September 2008, VPL.6161.0013.0846.

⁴⁰⁴³ Exhibit RC1340 Sergeant Tim Johns diary, 2 September 2008, 76-77, RCMPI.0144.0001.0001 @.0076-.0077.

⁴⁰⁴⁴ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [77], VPL.0014.0118.0001 @.0011.

⁴⁰⁴⁵ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 11 [7], VPL.0014.0118.0001 @.0011

⁴⁰⁴⁶ Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 4 [23], VPL.0014.0118.0021 @0024; Transcript of Sergeant Tim Johns, 20 February 2020, 14680, TRN.2020.02.20.1.P.

⁴⁰⁴⁷ Transcript of Sergeant Tim Johns, 20 February 2020, 14690, TRN.2020.02.20.1.P.

⁴⁰⁴⁸ Exhibit RC1337 Mr Dale Flynn diary, 12 August 2008, 73, RCMPI.0062.0002.0002 @.0073.

⁴⁰⁴⁹ Exhibit RC1337 Mr Dale Flynn diary, 12 August 2008, 73, RCMPI.0062.0002.0002 @.0073.

⁴⁰⁵⁰ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 12 [78],

VPL.0014.0118.0001 @.0012; Exhibit RC1339 Email from Fox to Tim Johns, 3 September 2008, VPL.6048.0024.8711; Exhibit RC1339 Redacted Information Reports attached to email from Fox to Tim Johns, 3 September 2008, VPL.6048.0024.8712, VPL.6048.0024.8713, VPL.6048.0024.8715,

edited 'purely on consideration of our office'.⁴⁰⁵¹ Mr Fox also noted that Mr Johns would need to read the IRs again and maybe sanitise more in consideration of issues from his office.⁴⁰⁵²

2996. That morning Messrs Johns and Flynn attended upon Mr Gipp in the morning for the purposes of further preparing the PII claim and the preparation of the confidential affidavit.⁴⁰⁵³ Mr Johns said in his second statement to the Commission that he believed that he would not have disclosed the identity of the informer (Ms Gobbo) to Mr Gipp in the course of instructing him and in preparing the confidential affidavit. The reason he offered for not doing so was based upon emphasis in training of the importance of maintaining the confidentiality of human sources to protect their safety. Further, he had a view that the 'legal fraternity was close' and the risk increased with the number of people aware.⁴⁰⁵⁴
2997. Mr Fox's diary records that he had discussions throughout the morning with Messrs Johns and Flynn concerning the drafting of the affidavit. Mr Fox again communicated with Mr Sandy White about the IRs.⁴⁰⁵⁵
2998. The matter was called before the trial judge in the morning and stood down until later in the day. Transcript of the discussion reveals that Mr Shirreffs had caused the subpoena to be issued on behalf of Mr Horthy Mokbel because no agreement could be reached as to the amount of redaction to be made to the 16 IRs.⁴⁰⁵⁶ He did not want to know the identity of the informer, just the information that had been provided, as he considered it would be relevant to his cross-examination of Mr Cooper.⁴⁰⁵⁷ It is understandable that he was not seeking to know the identity of the informer, but that was because he could have had no idea of the significance of the informer's identity.
2999. Mr Johns knew that in this case, the actual identity of the informer for the particular reasons that he was aware of, and that Mr Shirreffs wasn't aware of, were significant – 'absolutely' he said.⁴⁰⁵⁸ Albeit, that he considered that there were legal complexities arising from Ms Gobbo's role, that he was uncertain about, neither he, nor Mr Flynn, who was present in court and in Mr Gipp's chambers throughout the day⁴⁰⁵⁹ were prepared to confide in their own barrister, and to ask for legal advice. Whilst in Mr Gipp's chambers, Mr

VPL.6048.0024.8717, VPL.6048.0024.8718, VPL.6048.0024.8719, VPL.6048.0024.8720, VPL.6048.0024.8721, VPL.6048.0024.8722, VPL.6048.0024.8724, VPL.6048.0024.8725, VPL.6048.0024.8727, VPL.6048.0024.8728, VPL.6048.0024.8729, VPL.6048.0024.8730, VPL.6048.0024.8731.

⁴⁰⁵¹ Exhibit RC1339 Email from Fox to Tim Johns, 3 September 2008, VPL.6048.0024.8711.

⁴⁰⁵² Exhibit RC1339 Email from Fox to Tim Johns, 3 September 2008, VPL.6048.0024.8711.

⁴⁰⁵³ Exhibit RC0560 Mr Dale Flynn diary, 3 September 2008, 74, RCMP1.0062.0002.0002 @.0074.

⁴⁰⁵⁴ Exhibit RC1332d Supplementary statement of Sergeant Tim Johns, 18 February 2020, 18 February 2020, 4 [23], VPL.0014.0118.0021 @.0024.

⁴⁰⁵⁵ Exhibit RC0507 Mr Fox diary, 3 September 2008, 9-10, VPL.2000.0001.3989 @.3997-.3998.

⁴⁰⁵⁶ Transcript of Sergeant Tim Johns, 20 February 2020, 14680, TRN.2020.02.20.1.P; Exhibit RC1331 Transcript of proceedings, *The Director of Public Prosecutions v Horthy Mokbel and Toreq Bayeh* (Supreme Court of Victoria, Curtain J, 3 September 2008), 751, VPL.0005.0273.0001.

⁴⁰⁵⁷ Exhibit RC1331 Transcript of proceedings, *The Director of Public Prosecutions v Horthy Mokbel and Toreq Bayeh* (Supreme Court of Victoria, Curtain J, 3 September 2008), 753, VPL.0005.0273.0001 @.0004.

⁴⁰⁵⁸ Exhibit RC1331 Transcript of proceedings, *The Director of Public Prosecutions v Horthy Mokbel and Toreq Bayeh* (Supreme Court of Victoria, Curtain J, 3 September 2008), VPL.0005.0273.0001;

Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁵⁹ RCMP1.0062.0002.0002 pages 73-74.

Flynn recorded in his diary the contact details of an assistant legal adviser to the Chief Commissioner of Police, but there is no suggestion that any advice was sought from that person either.⁴⁰⁶⁰

3000. Messrs Flynn and Johns were not prepared to submit the question to Justice Curtain, who was required to make her decision in the absence of the full facts. The confidential affidavit, after attaching the IRs,⁴⁰⁶¹ was ultimately filed with the court at 2.15pm that day.⁴⁰⁶² The affidavit did not reveal Ms Gobbo's identity.
3001. The following morning, her Honour found in favour of the police in respect of all but one of the IRs. In that case her Honour was not prepared to rule in the absence of more information. That IR concerned information provided by Ms Gobbo.
3002. As a result of her Honour's ruling, Mr Johns prepared a supplementary affidavit in Mr Gipp's chambers and submitted it to the Judges' associate at 11.30am that day.⁴⁰⁶³ Mr Fox was involved in the preparation of this affidavit also. The diary entry noted that only one copy would be made and that Mr Johns was to have it returned to him in the afternoon from the judge.⁴⁰⁶⁴
3003. A draft version only of this affidavit has been located by Victoria Police and produced to the Commission.⁴⁰⁶⁵ The draft includes the following sentences:
- 3003.1. 'The information was disclosed to Purana Taskforce detectives by informer X
- 3003.2. If this information is released it will become very apparent to Cooper that this information came from informer X ...
- 3003.3. Informer X has informed police also that he had Cooper's confidence sufficiently for those types of personal thoughts to be disclosed to him.'
3004. When it was put to Mr Johns before the Commission that Informer X was obviously Ms Gobbo, he replied 'yes'.⁴⁰⁶⁶ On the assumption that the draft version reflects the sworn affidavit, it can be seen that not only was Mr Johns not prepared to identify informer X to the judge, he was apparently of the view that it was necessary to mislead her as to the informer's gender.
3005. Mr Johns noted that whilst he was not told by anyone not to tell Mr Gipp about Ms Gobbo's role, his training and time at Purana had taught him to

⁴⁰⁶⁰ Exhibit RC0560 Mr Dale Flynn diary, 12 August 2008, 74, RCMPPI.0062.0002.0002 @.0074.

⁴⁰⁶¹ Exhibit RC1338 Unsigned confidential affidavit of Sergeant Tim Johns, 3 September 2008, VPL.2100.0025.5963.

⁴⁰⁶² Exhibit RC1340 Sergeant Tim Johns diary, 3 September 2008, 77, RCMPPI.0144.0001.0001 @.0077; Exhibit RC1338 Unsigned confidential affidavit of Sergeant Tim Johns, 3 September 2008, VPL.2100.0025.5963.

⁴⁰⁶³ Transcript of Sergeant Tim Johns, 20 February 2020, 14684, TRN.2020.02.20.1.P; Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 12 [80], VPL.0014.0118.0001 @.0012; Exhibit RC1340 Sergeant Tim Johns diary, 13 August 2008, 31, VPL.0005.0249.0146 @.0176; Exhibit RC1341 Unsigned confidential affidavit of Sergeant Tim Johns, 4 September 2008, VPL.6161.0008.6796.

⁴⁰⁶⁴ Exhibit RC0507 Mr Fox diary, 4 September 2008, 13, VPL.2000.0001.3989 @.4001.

⁴⁰⁶⁵ Exhibit RC1332 Statement of Sergeant Tim Johns, 11 December 2019, 12 [80], VPL.0014.0118.0001 @.0012; Transcript of Sergeant Tim Johns, 20 February 2020, 14686, TRN.2020.02.20.1.P.

⁴⁰⁶⁶ Transcript of Sergeant Tim Johns, 20 February 2020, 14686, TRN.2020.02.20.1.P.

keep an informer or human source's identity confidential.⁴⁰⁶⁷ Looking back Mr Johns admitted that he could see how a court would regard it as completely irregular and extraordinary if it found out the extent of Ms Gobbo's involvement.⁴⁰⁶⁸

3006. On 5 September 2008 Justice Curtain ruled in Victoria Police's favour on the PII claims over the IR.⁴⁰⁶⁹ Mr Johns' diary records that the original affidavit was returned to him and that he provided the affidavit to Mr Fox.⁴⁰⁷⁰ Mr Johns also confirmed that there was only one printed copy of the confidential affidavit.⁴⁰⁷¹ Whilst Mr Gipp assured Mr Johns he would delete the electronic version of the affidavit, Mr Fox suggested to Mr Johns that he supervise the removal of it from Mr Gipp's computer.⁴⁰⁷²

Submissions concerning the 1 September 2008 Subpoena

3007. **On the evidence, it is open to the Commissioner to find that subject to any argument about the terms of the subpoena and public interest immunity, this broad subpoena would have obliged production by the Chief Commissioner a significant amount of information including police notes, ICRs, IRs, and other SDU and Purana investigator's documents that would have exposed Ms Gobbo as a human source and exposed the manner in which she was deployed to obtain information that was used to arrest Mr Cooper, and then Mr Horthy Mokbel.**

3008. Like the earlier subpoena, strict compliance with this subpoena would have required production of material that could have been relied upon by defence to challenge the admissibility of evidence produced by the Crown; in particular, the evidence of Mr Cooper. For the reasons set out above, any experienced police officer involved in criminal investigation, would have known that the fact that Ms Gobbo was both a barrister for, and an informer against, Mr Cooper, the main witness in the trial, would most likely have been relevant to the conduct of the trial.
3009. In a confidential affidavit to the Court, Mr Johns likely⁴⁰⁷³ swore that although the subpoena sought production of all information and reports, '(A)fter discussions with junior counsel for the defendant, I have limited the documents sought to be produced under the subpoena to all "information reports" on Victoria Police form VP 291A pertaining to Cooper and his activities in the period of November 2004 to April 2006.'

⁴⁰⁶⁷ Transcript of Sergeant Tim Johns, 20 February 2020, 14687, TRN.2020.02.20.1.P.

⁴⁰⁶⁸ Transcript of Sergeant Tim Johns, 20 February 2020, 14687, TRN.2020.02.20.1.P.

⁴⁰⁶⁹ Exhibit RC1340 Sergeant Tim Johns diary, 5 September 2008, 78, RCMP1.0144.0001.0001 @.0078; Exhibit RC0507 Mr Fox diary, 5 September 2008, 19, VPL.2000.0001.3989 @.4007.

⁴⁰⁷⁰ Exhibit RC1340 Sergeant Tim Johns diary, 5 September 2008, 78, RCMP1.0144.0001.0001 @.0078; Exhibit RC0507 Mr Fox diary, 5 September 2008, 19, VPL.2000.0001.3989 @.4007.

⁴⁰⁷¹ Exhibit RC0507 Mr Fox diary, 5 September 2008, 19, VPL.2000.0001.3989 @.4007.

⁴⁰⁷² Exhibit RC0507 Mr Fox diary, 5 September 2008, 19, VPL.2000.0001.3989 @.4007.

⁴⁰⁷³ The Commission only has been provided with an unsworn affidavit dated 3 September 2008. Exhibit RC1338 Unsigned confidential affidavit of Sergeant Tim Johns, 3 September 2008, VPL.2100.0025.5963.

3010. **On the evidence, it is open to the Commissioner to find that Mr Flynn, and Mr Johns knew that there were a multitude of relevant documents answering the terms of the subpoena, in addition to those reports.**
3011. **On the evidence, it is open to the Commissioner to find that because Mr Shirrefs or Mr Mandy were prepared to accept the production of the 16 IRs in response to the subpoena was not evidence of an agreement, but simply an indication that they could not have had any idea of what the police had been up to. Insofar as Mr Flynn and Mr Johns were prepared to permit the defence lawyers to believe that the 16 IRs amounted to appropriate compliance with the subpoena, their conduct was improper.**

3012. In evidence to the Commission Mr Johns agreed that the subpoena was broad however he understood that Mr Mandy was seeking IRs only. As a result, he did not turn his mind to the broader subpoena other than the information reports.⁴⁰⁷⁴
3013. Mr Johns knew that Mr Cooper had not had the benefit of independent legal advice after he was arrested and when he agreed to assist police, because Ms Gobbo was, in effect, an agent of police.⁴⁰⁷⁵ He also understood that the defence were trying to find out as much information as they could about matters concerning the investigation of Mr Cooper.⁴⁰⁷⁶ Despite this, Mr Johns did not consider that it would have been appropriate to raise this issue with superior officers or lawyers.⁴⁰⁷⁷
3014. When it was put to Mr Johns at the Commission that he would have been aware, at that point in time, that the relevance related to Ms Gobbo's involvement in advising Mr Cooper whilst informing on him, Mr Johns testified that he did not think he thought of this at that time. Further to that Mr Johns stated:

*It's a was pretty complex legal issue and I don't think, even looking back at it now, I know the answer whether he's entitled to know what occurred then. I can't answer that question. I couldn't answer it back then and I don't think I can answer it now.*⁴⁰⁷⁸

3015. Despite this Mr Johns also agreed that he was aware of:
- 3015.1. the duty of disclosure⁴⁰⁷⁹
- 3015.2. the right of a person such as Mr Cooper to be advised by an independent lawyer⁴⁰⁸⁰

⁴⁰⁷⁴ Transcript of Sergeant Tim Johns, 20 February 2020, 14676, TRN.2020.02.20.1.P.

⁴⁰⁷⁵ Transcript of Sergeant Tim Johns, 20 February 2020, 14677, TRN.2020.02.20.1.P.

⁴⁰⁷⁶ Transcript of Sergeant Tim Johns, 20 February 2020, 14678, TRN.2020.02.20.1.P.

⁴⁰⁷⁷ Transcript of Sergeant Tim Johns, 20 February 2020, 14677, TRN.2020.02.20.1.P.

⁴⁰⁷⁸ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁷⁹ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁸⁰ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

- 3015.3. that whilst there is an obligation to protect the informer in these proceedings, this right is not absolute and there are circumstances, although rare (such as the requirement for a fair trial), that trump that right⁴⁰⁸¹
- 3015.4. that he had responsibilities in answering the subpoena⁴⁰⁸²
- 3015.5. the fact Mr Cooper hadn't been advised by an independent lawyer⁴⁰⁸³
- 3015.6. that Mr Cooper's lawyer was an informer.⁴⁰⁸⁴
3016. Mr Johns also accepted that he felt that the process was unusual and strange.⁴⁰⁸⁵ He also accepted he raised it with his colleagues.⁴⁰⁸⁶ On the other hand, Mr Johns would no doubt have been guided by his superior officers, in particular Messrs Flynn and Fox.
3017. In his evidence to the Commission, Mr Johns proffered a number of explanations as to why he did not disclose Ms Gobbo's identity to the Court, or even Mr Gipp who was advising him. In particular Mr Johns:
- 3017.1. indicated he was conflicted because throughout training he was taught to keep an informer's identity a secret and thought she may have been killed⁴⁰⁸⁷
- 3017.2. thought advice had been obtained whilst registered, and he assumed that legal advice had been obtained⁴⁰⁸⁸
- 3017.3. his training had taught him not to tell anyone⁴⁰⁸⁹
- 3017.4. knew the legal fraternity was close.⁴⁰⁹⁰
3018. By the time of that trial, it is submitted that it must have been apparent to Mr Johns that if the defence, or court, became aware that the circumstances in which Victoria Police secured the co-operation of Mr Cooper involved using his barrister (unbeknownst to Mr Cooper) as a covert source of information that enabled police to arrest and charge him, there would likely be significant ramifications to the trial.

3019. It is submitted that at the very least, Mr Johns could not have considered that this information was irrelevant or of no consequence. In evidence before the Commission he agreed that 'looking back', had Justice Curtain learned that Ms Gobbo was the informer whose identity the police were trying to protect by its claim for public interest immunity, she would have regarded it as extraordinary and completely irregular.⁴⁰⁹¹

⁴⁰⁸¹ Transcript of Sergeant Tim Johns, 20 February 2020, 14683, TRN.2020.02.20.1.P.

⁴⁰⁸² Transcript of Sergeant Tim Johns, 20 February 2020, 14684, TRN.2020.02.20.1.P.

⁴⁰⁸³ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁸⁴ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁸⁵ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁸⁶ Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁸⁷ Transcript of Sergeant Tim Johns, 20 February 2020, 14683, TRN.2020.02.20.1.P.

⁴⁰⁸⁸ Transcript of Sergeant Tim Johns, 20 February 2020, 14683, TRN.2020.02.20.1.P.

⁴⁰⁸⁹ Transcript of Sergeant Tim Johns, 20 February 2020, 14684, TRN.2020.02.20.1.P.

⁴⁰⁹⁰ Transcript of Sergeant Tim Johns, 20 February 2020, 14683, TRN.2020.02.20.1.P.

⁴⁰⁹¹ Transcript of Sergeant Tim Johns, 20 February 2020, 14687, TRN.2020.02.20.1.P.

3020. **Given that Mr Johns also conceded that as a Detective in 2007, he was aware that Mr Cooper had been entitled to independent legal advice upon his arrest, but rather had been advised by a police informer,⁴⁰⁹² it is likely to be the case that he would have regarded the actual identity of the informer as being a relevant to the judge and the defence.**
3021. **On the evidence, it is open to the Commissioner to find that Mr Johns failed to properly comply with the 1 September 2008 subpoena.**

Knowledge of Senior Officers within the SDU of 1 September Issues

3022. The evidence before the Commission indicates that whilst Messrs Johns, Flynn, Green and Fox were dealing with subpoena issues relating to Ms Gobbo, the SDU officers were briefing Mr Sandy White. In turn, Mr Sandy White kept his superior officers apprised of the issues that had arisen at least in respect of the 1 September subpoena.
3023. In the afternoon of 3 September, Mr Sandy White updated Mr Biggin and Mr Glow about the concerns arising from the subpoena, and he recorded his communication in Ms Gobbo's SML:

... Purana had briefed counsel yesterday for PII hearing in relation to IRs concerning Mr Cooper. 16 IRs had been handed over to Purana, from us that are heavily edited. No prizes for guessing where the intel comes from'

Cooper will not be giving evidence until this matter is resolved. Defence are obviously looking to discredit Cooper and are trying to get as much information about him as possible.

Each IR has the potential to compromise the source and the collection in total, would definitely compromise the source firstly to Cooper himself and then possibly to Harty as well.

This matter is as much under control as we can make it. I will let you both know the result of the PII hearing when I get it.⁴⁰⁹³

Submissions concerning the Senior Officers of the SDU

3024. Mr Sandy White was asked about this email, and whether he had been involved in the heavy editing of the IRs that had been handed over. Consistent with Mr Sandy White's repeated claims that the SDU was not involved in questions of disclosure or answering subpoenas, he said: 'I think that would have been done by the Human Source Management Unit. ... All I

⁴⁰⁹² Transcript of Sergeant Tim Johns, 20 February 2020, 14682, TRN.2020.02.20.1.P.

⁴⁰⁹³ Exhibit RC0296 Email exchange involving Sandy White, Anthony (Tony) Biggin and Andrew Glow, 3-4 September 2008, VPL.6029.0001.0016.

can tell you is that any application for PII or the like were managed by them and the investigators.⁴⁰⁹⁴

3025. It is open for the Commissioner to find that that was not the case. Rather, it is submitted that in cases in which there were concerns on the part of investigators that a court process might lead to disclosure of Ms Gobbo's relationship with Victoria Police, the investigators, as in this case, would closely liaise with the SDU handlers or Mr Sandy White.

3026. Asked about the contents of his email, Mr Sandy White said that he did not know whether the barrister engaged to argue the PII point on behalf of the Chief Commissioner would have been briefed as to the identity of Ms Gobbo. He was not prepared to venture a view as to whether that should have occurred. It is submitted, given the evidence referred to above, in particular, Mr Fox's close involvement with Mr Johns in the affidavit preparation, that if Mr Gipp had been told by Mr Johns of the identity of the informer X, that would have been conveyed to Mr Sandy White, and it would have found its way into the ICRs and the SML. The number and names of people who were aware of Ms Gobbo's role was a matter that Mr Sandy White was closely interested in .

3027. On the evidence, it is open to the Commissioner to find that given his knowledge of the manner in which the SDU and Purana had utilised Ms Gobbo, and the potential impropriety thereof, it is submitted that it is a matter that Mr Sandy White should have insisted that Mr Fox instruct Mr Johns to apprise Mr Gipp about, so that the lawfulness and propriety of Victoria Police's conduct, which was potentially relevant to a case then being heard, could properly be considered.

3028. On 4 September Mr Sandy White emailed Mr Biggin and stated that 'we had a win re the PII issue for 3838 IRs re Cooper. They have been appropriately sanitised and the defence are satisfied.'⁴⁰⁹⁵

3029. Mr Biggin's supplementary statement to the Commission states that he was briefed via email on 3 and 4 September 2008 in relation to a PII claim, but did not have any involvement in making this claim, as 'this was a matter for investigators'.⁴⁰⁹⁶

⁴⁰⁹⁴ Transcript of Mr Sandy White, 2 August 2019, 3808

⁴⁰⁹⁵ Exhibit RC0296 Email exchange involving Sandy White, Anthony (Tony) Biggin and Andrew Glow, 3-4 September 2008, VPL.6029.0001.0016.

⁴⁰⁹⁶ Exhibit RC0577 Supplementary statement of Mr Anthony (Tony) Biggin, 25 July 2019, 29 [165], VPL.0014.0041.0008 @.0036.

3030. In Mr Biggin's evidence to the Commission Mr Biggin stated that he was unaware of what counsel was or wasn't told in relation to the source of the information in the IRs.⁴⁰⁹⁷

3031. On the evidence, it is open to the Commissioner to find that given his knowledge of the manner in which the SDU and Purana had utilised Ms Gobbo, and the potential impropriety thereof, it is submitted that it is a matter that Mr Biggin should have insisted that Mr Fox instruct Mr Johns to apprise Mr Gipp about, so that the lawfulness and propriety of Victoria Police's conduct, which was potentially relevant to a case then being heard, could properly be considered.

⁴⁰⁹⁷ Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7681, TRN.2019.10.10.01.P

CHAPTER 17 – 2008 TO EARLY 2009: THE ONGOING USE OF GOBBO AS A HUMAN SOURCE AND HER TRANSITION TO WITNESS

Introduction

3032. Moving into 2008, Ms Gobbo was still considered a valuable source for Victoria Police, including being of assistance to both the Petra and Briars Taskforces.⁴⁰⁹⁸
3033. Ms Gobbo continued to associate with and provide information about Mr Karam, who the SDU knew to be the subject of an AFP investigation. He had not yet been arrested in relation to the container of ecstasy which had been intercepted in mid-2007 following information provided by her. Some information was being disseminated, although given concerns over her compromise this was restricted.⁴⁰⁹⁹
3034. With the Mokbels locked up, Ms Gobbo's attention moved to the 'Carlton Crew', led by Mick Gatto. This was no doubt a product of a number of factors, including a fear of deactivation involving her being left without the SDU at the end of a phone, as well as the challenge and satisfaction she received from her involvement in having caused the demise of major organised crime figures.⁴¹⁰⁰ Ms Gobbo had been representing an associate of Mr Gatto's, Faruk Orman, for a number of years, most recently in relation to murder charges where the main witness against him was Mr Thomas. In the latter part of 2007, she had also appeared for Mr Gatto at a coercive hearing.
3035. The risk rating given to Ms Gobbo remained high by virtue of continuing anonymous threats, and various other concerns related to the exposure of Ms Gobbo's assistance to the police.⁴¹⁰¹ In January 2008, the SML and ICRs contain entries revealing concerns in relation to:
- Mr Bickley, who was giving evidence in the committal proceeding of Mr Radi, and of the informant, Mr Rowe, being asked questions about the lawyers who had represented Mr Bickley. The names of three or four lawyers were given, none was Ms Gobbo's⁴¹⁰²
 - Mr Thomas was soon to give evidence in the committal of Mr Orman, and Ms Gobbo was concerned about his being angry with her and possibly compromising her. Arrangements were made with Mr Ryan to have Mr Bateson speak to Mr Thomas⁴¹⁰³

⁴⁰⁹⁸ Exhibit RC0284 SML3838, 2 January 2008, 133, VPL.2000.0001.9447 @.9579

⁴⁰⁹⁹ Exhibit RC0284 SML3838, 2 January 2008, 133, VPL.2000.0001.9447 @.9579

⁴¹⁰⁰ Exhibit RC0284 SML3838, 2 January 2008, 133, VPL.2000.0001.9447 @.9579

⁴¹⁰¹ Exhibit RC0284 SML3838, 2 January 2008, 133, VPL.2000.0001.9447 @.9579

⁴¹⁰² Exhibit RC0284 SML2958, 24 January 2008, 1, VPL.2000.0001.9236 @.9236; Exhibit RC0281 ICR3838 (119), 19-21 January 2008, 1580, 1582, 1583 VPL.2000.0003.3166, .3168, .3169; Exhibit RC0281 ICR2958 (001), 24 & 30 January 2008, 2 & 17, VPL.2000.0003.0742, .0757

⁴¹⁰³ Exhibit RC0281 ICR2958 (001), 30 January 2008, 16-17, VPL.2000.0003.0756-.0757; Exhibit RC0284 SML2958 30 January 2008, 1 VPL.2000.0001.9236 @.9236

thought that Mr Waters was with Ms Gobbo, and that he believed this occurred in May 2003.⁴¹⁰⁹

3040. Thereafter Mr Iddles contacted Ms Gobbo and arranged to meet her.⁴¹¹⁰

3041. On 14 January 2008, at 2:30pm Messrs Iddles and Waddell attended Ms Gobbo's chambers and interviewed her. During the interview, amongst other matters, Ms Gobbo stated that:

- she had heard that Mr Gregory killed Mr Chartres-Abbott
- she had been told that by solicitor, Mr Jim Valos, who had been told by a client of his, Mr Lee Perry
- she had acted for Mr Lee Perry, having prepared a committal document for him on 11 November 2002
- she had been asked to be involved in the crime compensation application on behalf of the victim of the rape perpetrated by Mr Chartres-Abbott
- she could have been at the Canada Hotel on 23 May 2003, as she only had a committal mention hearing in the morning
- she recalled seeing Mr Waters on 29 May 2003 as she had the Lewis Moran bail application the following day and Mr Waters asked her about it.⁴¹¹¹

3042. At 3:17pm Ms Gobbo spoke to the SDU after Messrs Waddell and Iddles had left. She told her handler they had been very interested in Mr Lee Perry, and Mr Waddell wanted a statement from her.⁴¹¹²

3043. At 4:00pm the SDU spoke to Mr Iddles. He said the publican of the Canada Hotel, David Rhys-Jones, had said he thought Ms Gobbo might have been there, and that Ms Gobbo thought she was there on an appropriate date, as she had been going out with Steve Campbell at the time. Mr Iddles said that it was Ms Gobbo who had asked if they wanted a statement.⁴¹¹³

3044. The following day, 15 January 2008, Messrs Waddell and Iddles spoke with Mr Valos. He denied what had been said by Ms Gobbo, amongst other things saying:

- he had acted at one stage for the victim of Mr Chartres-Abbott in a crime compensation application
- he had acted at one stage for Mr Lee Perry, whom he believed had been charged by Mr David Miechel, and for whom Ms Gobbo had prepared the committal document
- he only saw Mr Lee Perry twice, and he went to another solicitor for representation

⁴¹⁰⁹ Exhibit RC0281 ICR3838 (118), 11 January 2008, 1562, VPL.2000.0003.3148

⁴¹¹⁰ Exhibit RC1563 Mr Ronald (Ron) Iddles diary, 11 January 2008, 5, VPL.0100.0170.0001 @.0005

⁴¹¹¹ Exhibit RC0283 Information Report Briars 301, 14 January 2008, VPL.0100.0019.0298

⁴¹¹² Exhibit RC0281 ICR3838 (119), 14 January 2008, 1570, VPL.2000.0003.3156

⁴¹¹³ Exhibit RC0281 ICR3838 (119), 14 January 2008, 1570, VPL.2000.0003.3156

- he had acted more so for his brother, Mr Mark Perry
 - he had no discussion with Mr Mark Perry about Mr Gregory
 - he could not recall ever being told by Mr Lee Perry or anyone else that Mr Gregory was responsible for the murder of Mr Chartres-Abbott.⁴¹¹⁴
3045. Mr Valos indicated he would try to locate the Perry file and advise of the dates he dealt with him, and that a warrant would be needed to obtain the file. In an email that day from Mr Iddles to Mr Waddell he listed dates upon which Mr Valos' file indicated interaction with Mr Lee Perry. All were prior to the murder of Mr Chartres-Abbott.⁴¹¹⁵
3046. It is apparent that other investigators were also aware of Ms Gobbo's status, such as Mr Trichias, who knew by late 2007 or early 2008 that she was providing the SDU with information directly related to the Petra and Briars Taskforces.⁴¹¹⁶
3047. Mr Cornelius maintained in evidence to the Commission that he was not told about this meeting between his investigators and Ms Gobbo until around March 2009, when he says he first became aware that Ms Gobbo was a human source.⁴¹¹⁷ Submissions as to Mr Cornelius' knowledge by this stage are made in previous chapters. It is submitted that as Chair of the Briars Taskforce Management Committee he would have been in receipt of regular briefings from investigators which would have included material relevant to Ms Gobbo.
3048. On 25 January 2008, Ms Gobbo reported to Mr Peter Smith that Mr Waters had been to see her and spoke about being interviewed by the Homicide Squad the previous week. Mr Waters had told Ms Gobbo he believed it was being done for the benefit of the media, and that he would ring her when they gave him his rights in relation to legal representation. Mr Peter Smith reported this to Mr Sandy White.⁴¹¹⁸
3049. It is submitted that this information made it clear that Mr Waters regarded Ms Gobbo as a legal representative providing him with legal advice.

24 January 2008 – 3838 becomes 2958

3050. On 23 January 2008, Mr Biggin met with Messrs Sandy White and Peter Smith to receive an update regarding Ms Gobbo.⁴¹¹⁹ Amongst other matters:⁴¹²⁰

⁴¹¹⁴ Exhibit RC1262 Information Report Briars 304, 15 January 2008, VPL.0100.0019.1492

⁴¹¹⁵ Exhibit RC1263 Email from Mr Ronald (Ron) Iddles to Mr Stephen Waddell, 15 January 2008, VPL.6073.0026.2137

⁴¹¹⁶ Exhibit0 RC0239a Statement of Detective Senior Sergeant Peter Trichias, 13 May 2019, 2, 3 [16], [22], VPL.0014.0007.0009 @.0010, .0011

⁴¹¹⁷ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12375-12378, TRN.2020.01.24.01.P

⁴¹¹⁸ Exhibit RC0281 ICR2958 (001), 25 January 2008, 4, VPL.2000.0003.0744; Exhibit RC0284 SML2958, 25 January 2008, 1, VPL.2000.0001.9236 @.9236

⁴¹¹⁹ Exhibit RC0577b Further statement of Mr Anthony (Tony) Biggin, 25 July 2019, 20 [99], VPL.0014.0041.0008 @.0027

⁴¹²⁰ Exhibit RC0284 SML3838, 23 January 2008, 135, VPL.2000.0001.9447 @.9581

- he was advised of information relating to Mick Gatto and updated on the Gatto investigation plan.
- he was updated on the Operation Agamas (related to Messrs Karam and Higgs) strategy.
- they discussed the ongoing strategy in relation to Ms Gobbo, including a change of registration number, noting that her human source number (3838) was known by too many persons at Purana and a change of number would stop 'loose conversation re 3838'.
- it was agreed that Ms Gobbo's relationship with Victoria Police would continue whilst the Mokbel trial and disclosure issues remained, and she would be deactivated on the conclusion of the Mokbel trials.

3051. The Issue Cover Sheet relating to the change of registration number request submitted by Mr Sandy White to Messrs Hardie, Biggin and Porter who approved the change indicated:⁴¹²¹

- Ms Gobbo had been an active human source since 16 September 2005
- she had been highly productive over a long period of time having provided intelligence regarding serious organised crime groups within Australia
- the intelligence had primarily been provided to the Purana Taskforce and numerous persons had been arrested and convicted as a result of her intelligence being acted upon
- Ms Gobbo's source number was more widely known than was desirable and consequently the potential existed for persons to identify Ms Gobbo as the common denominator in a large number of investigations
- concern if some of these documents were released into the public, either intentionally, via court processes or otherwise.

3052. The next day, the SDU began using the new source registration number, 2958 (a shortening of 11792958).⁴¹²²

3053. On 30 January 2008, Ms Gobbo met with Messrs Sandy White and Peter Smith who introduced her to a new handler, Mr Wolf. Mr Wolf was Ms Gobbo's fifth handler.

February 2008 – Same Old Same Old

3054. A Monthly Source Review completed by Mr Sandy White the following day noted in relation to the anticipated return of Mr Tony Mokbel from Greece, that Ms Gobbo might become involved with him and 'this may be of value depending on management issues, conflict and privilege'.⁴¹²³

⁴¹²¹ Exhibit RC0348 Issue Cover Sheet, 23 January 2008, VPL.2000.0001.9446

⁴¹²² Exhibit RC0284 SML3838, 24 January 2008, 135, VPL.2000.0001.9447 @.9581; Exhibit RC0284 SML2958, 24 January 2008, 1 VPL.2000.0001.9236 @.9236

⁴¹²³ Exhibit RC0284 SML2958, 1 February 2008, 2-3, VPL.2000.0001.9236 @.9237-.9238

3055. On 13 February 2008, Mr Sandy White met with Mr Ryan, [REDACTED] and Mr Wolf to discuss the charges against [REDACTED], who had a [REDACTED] [REDACTED] on the horizon. [REDACTED] had indicated he would subpoena members of police to give evidence to [REDACTED]. It was considered at that stage that [REDACTED] and not sincere. Mr Sandy White noted that the matter was to be discussed with Ms Gobbo as to the effect of [REDACTED] being granted. Mr Wolf spoke with Ms Gobbo who suggested that [REDACTED] would keep [REDACTED] happy and mean he would be less likely to accuse Ms Gobbo of encouraging [REDACTED] the police.⁴¹²⁴

February - March 2008 – Petra Interview and Tasking of Gobbo to Hodson

Background

3056. There were a number of different lines of inquiry taken by the Petra Taskforce investigation into the murder of the Hodsons.⁴¹²⁵
3057. Two Detectives involved in the original investigation of the murders were Mr Sol Solomon and Mr Cameron Davey. Mr Solomon was the supervising Sergeant and Mr Davey was the lead investigator.⁴¹²⁶ They had been seconded to the Petra Taskforce in April 2007.⁴¹²⁷ At the relevant times, the Taskforce was being led by Mr Shane O’Connell, who was the Acting Inspector until mid-2008 when Mr Smith commenced as the Inspector in charge of the investigation.⁴¹²⁸ Mr Gavan Ryan had preceded Mr O’Connell as the Inspector of the Taskforce, and also returned during periods of leave of the Officer in Charge.⁴¹²⁹
3058. The evidence before the Commission indicates that the knowledge of Ms Gobbo’s status as a human source was not made known to Messrs Solomon and Davey, whilst Messrs Ryan, Smith and O’Connell were aware of her status. Additionally, members of the Petra Taskforce Management Committee were also aware of Ms Gobbo’s status.⁴¹³⁰
3059. The Petra Taskforce investigators had identified Mr Andrew Hodson as a person of interest in the murder of his parents. He was not a primary suspect, but investigators had concerns regarding his account of events.⁴¹³¹

[REDACTED]
⁴¹²⁵ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10783, TRN.2019.12.10.01.P

⁴¹²⁶ Exhibit RC0326 Statement of Detective Sergeant Solon (Sol) Solomon, 15 January 2019, 2 COM.0041.0002.0001 @.0002

⁴¹²⁷ Exhibit RC0326 Statement of Detective Sergeant Solon (Sol) Solomon, 15 January 2019, 3 COM.0041.0002.0001 @.0003

⁴¹²⁸ Exhibit RC1305 Statement of Mr Shane O’Connell, 5 December 2019, 2 [14], VPL.0014.0115.0001 @.0002

⁴¹²⁹ Exhibit RC1305 Statement of Mr Shane O’Connell, 5 December 2019, 2 [14], VPL.0014.0115.0001 @.0002; Exhibit RC0310 Statement of Mr Gavan Ryan, 13 June 2019, [88], VPL.0014.0039.0001 @.0014

⁴¹³⁰ Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 2 [5], COM.0041.0002.0002 @.0002; Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 1 -2 [1]-[11], COM.0060.0001.0005 @.0001-.0002

⁴¹³¹ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 2-3 [12], COM.0060.0001.0005 @.0002-0003

As part of the investigations into these murders, a plan was developed by investigators to ask Mr Hodson to participate in a polygraph test.⁴¹³²

3060. As part of that plan, the SDU co-ordinated with members of the Petra Taskforce to task Ms Gobbo to speak to Mr Andrew Hodson, under the guise of providing him with legal advice, to encourage him to participate in a polygraph test. This plan is set out below.

Gobbo Connection with Petra Suspects

3061. Ms Gobbo had been identified early in the investigation as a key person of interest due to her close contact with 'key players'.⁴¹³³
3062. Petra produced a profile of Ms Gobbo on 15 February 2008.⁴¹³⁴ The reasons Ms Gobbo was a target of Petra were set out in that profile. The Petra Taskforce considered that Ms Gobbo may have knowledge of intimate details of the planning of the Hodson murders.
3063. On the night of 16 May 2004, Mr Andrew Hodson and his sister Mandy had discovered the bodies of their parents after they had been murdered. On discovering the bodies, the first person Mr Hodson contacted was Ms Gobbo, who subsequently contacted Mr De Santo.⁴¹³⁵ A written update provided to the Petra Taskforce Management Committee meeting attended by Messrs Overland, Cornelius, Ashton and O'Connell and Officer Terrasse,⁴¹³⁶ on 10 December 2007 had included an assessment of a statement made by Mr Andrew Hodson including issues which required further canvassing and explanation. It was indicated that investigators were to meet with him. Further handwritten notes by Messrs Overland and Cornelius refer to a possible human source being identified.⁴¹³⁷
3064. Petra was also aware that Ms Gobbo had an association with Mr Azzam Ahmed. Mr Ahmed had been identified by Petra Taskforce investigators as running the drug manufacturing operation from the house that had been targeted in the Dublin St burglary.⁴¹³⁸ Ms Gobbo had previously represented Mr Ahmed following his arrest in relation to this burglary in 2003, and a further arrest on 16 August 2004. It seems that Ms Gobbo commenced a relationship with Mr Ahmed following her making successful application for bail on his behalf in late 2003. She had been out to dinner with him shortly prior to this second arrest, for which bail was not granted, and was

⁴¹³² Exhibit RC1547d Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 1 -2 [1]-[11], 2-3, COM.0060.0001.0005 @0001-.0002, .0002-0003; Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 2 [5], COM.0041.0002.0002 @.0002

⁴¹³³ Exhibit RC0326 Statement of Detective Sergeant Solon (Sol) Solomon, 15 January 2019, 3, COM.0041.0002.0001 @.0003; Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 4 [14], COM.0041.0002.0002 @0004

⁴¹³⁴ Exhibit RC1773 Victoria Police, Petra Taskforce Target Profile of Ms Nicola Gobbo, 15 February 2008, 7, VPL.0010.0001.0001 @.0007

⁴¹³⁵ Exhibit RC0097 Further statement of Mr Peter De Santo, 7 May 2019, [16], VPL.0014.0026.0001 @.0003

⁴¹³⁶ Exhibit RC0996 Petra Taskforce Update, 10 December 2007, 1, VPL.0100.0001.5402 @.0302-.0306; Exhibit RC0996 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 10 December 2007, 302-6, VPL.0100.0001.5402 @.5703-.5707

⁴¹³⁷ Exhibit RC0996 Petra Taskforce Update, 10 December 2007, 1, VPL.0100.0001.5402 @.0302-6; Exhibit RC0996 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 10 December 2007, 302-6, VPL.0100.0001.5402 @.5703-.5707

⁴¹³⁸ Exhibit RC0326 Statement of Detective Sergeant Solon (Sol) Solomon, 15 January 2019, 4, COM.0041.0002.0001 @.0004

subsequently responsible for making regular payments into his prison account. She had confirmed Mr Ahmed's alibi for the night of the murders as she was having dinner with him.⁴¹³⁹ Petra considered that Mr Ahmed required further investigation and he was considered a relevant suspect.⁴¹⁴⁰

3065. Petra was also interested in Ms Gobbo's association with Mr Tony Mokbel. It had obtained evidence which indicated that Mr Tony Mokbel was allegedly the financier of the Dublin Street drug house operation.⁴¹⁴¹ After having represented Mr Mokbel in 2002, Ms Gobbo became aware that Mr Terrence Hodson was a police informer.⁴¹⁴² There was also a reference in the profile to Andrew Hodson's belief that Ms Gobbo had previously had an intimate relationship with Mr Paul Dale.⁴¹⁴³

3066. Ms Gobbo was therefore a person of interest to Petra and it was determined that investigators should interview her.

Approach to SDU regarding Gobbo Interview

3067. On 5 February 2008, Mr Ryan advised the SDU that Petra investigators wanted to speak to Ms Gobbo.⁴¹⁴⁴

3068. Mr Davey developed a list of questions that investigators wanted to ask Ms Gobbo. He was required to submit the Questionnaire through the Chain of Command for approval.⁴¹⁴⁵ Given that Mr Davey was unaware that Ms Gobbo was a human source, he did not know why it was necessary to obtain this approval.⁴¹⁴⁶ They had been instructed not to discuss matters with Ms Gobbo other than those contained within the Questionnaire.⁴¹⁴⁷

3069. The SDU handlers advised Ms Gobbo to expect a phone call but did not give her any indication about the contents of that phone call.⁴¹⁴⁸

3070. On 21 February 2008, Mr Solomon and Mr Davey called Ms Gobbo to set up an interview.

3071. The initial meeting occurred on 26 February 2008, with subsequent meetings occurring on 28 February 2008 and 5 March 2008. During these

⁴¹³⁹ Exhibit RC1773 Victoria Police, Petra Taskforce Target Profile of Ms Nicola Gobbo, 15 February 2008, 8, VPL.0010.0001.0001 @.0008

⁴¹⁴⁰ Exhibit RC1773 Victoria Police, Petra Taskforce Target Profile of Ms Nicola Gobbo, 15 February 2008, 8, VPL.0010.0001.0001 @.0008

⁴¹⁴¹ Exhibit RC0326 Statement of Detective Sergeant Solon (Sol) Solomon, 15 January 2019, 4, COM.0041.0002.0001 @.0004

⁴¹⁴² Exhibit RC1773 Victoria Police, Petra Taskforce Target Profile of Ms Nicola Gobbo, 15 February 2008, 8, VPL.0010.0001.0001 @.0008

⁴¹⁴³ Exhibit RC1773 Victoria Police, Petra Taskforce Target Profile of Ms Nicola Gobbo, 15 February 2008, 8, VPL.0010.0001.0001 @.0008

⁴¹⁴⁴ Exhibit RC0284, SML2958, 5 February 2008, 3, VPL.2000.0001.9236 @.9238

⁴¹⁴⁵ Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 4 [14], COM.0041.0002.0002 @.0004

⁴¹⁴⁶ Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 4 [14], COM.0041.0002.0002 @.0004

⁴¹⁴⁷ Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 4 [14], COM.0041.0002.0002 @.0004

⁴¹⁴⁸ Exhibit RC0284, SML2958, 5 February 2008, 3, VPL.2000.0001.9236 @.9238

meetings, Mr Solomon and Mr Davey asked Ms Gobbo about matters contained within the Questionnaire.⁴¹⁴⁹

26 February 2008 – Gobbo First Interview by Petra

3072. At the first formal interview of Ms Gobbo by Petra investigators on 26 February 2008, Ms Gobbo was interviewed by Mr Solomon and Mr Davey.⁴¹⁵⁰
3073. During a telephone call to her handler, Mr Wolf, the day prior to the interview, Ms Gobbo expressed concern about being interviewed.⁴¹⁵¹ She wanted to know why they wanted to talk to her and what they wanted to ask. She thought that she might be asked questions that would invite answers that would indicate she had passed on information to Victoria Police.⁴¹⁵²
3074. On the day of the interview, there were ongoing communications between the SDU and investigators. Mr Wolf contacted Mr Ryan at 4:24pm, seeking an update. Mr Ryan told him there was none.⁴¹⁵³
3075. At 17:20 pm, Mr Wolf received a call from Ms Gobbo after the interview. He recorded in his diary in relation to the Petra debrief that she was 'generally happy' and 'exuberant'.⁴¹⁵⁴
3076. She also provided Mr Wolf with debrief of the meeting. She told him she had referred to the threats she had been receiving, which she had told investigators may have been due to the fact she was instrumental in the assistance of Messrs Cooper, Thomas and McGrath.⁴¹⁵⁵
3077. Ms Gobbo also said that she told the investigators that the Mokbel and Williams clans were willing to have her murdered due to her rolling witnesses against them.⁴¹⁵⁶
3078. She mentioned that there were 15 pages of topics to cover, and they had only completed two of those pages.⁴¹⁵⁷
3079. After his conversation with Ms Gobbo, Mr Wolf called Mr Ryan again seeking an update of the interview. Mr Ryan told him that 'things were too slow' and that Ms Gobbo was 'rambling on and need[ed] to just answer the question and not deviate'.⁴¹⁵⁸

⁴¹⁴⁹ Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 4-5 [15], COM.0041.0002.0002 @.0004-0005

⁴¹⁵⁰ Exhibit RC0284, SML2958, 26 February 2008, 6, VPL.2000.0001.9236 @.9241

⁴¹⁵¹ Exhibit RC0882 Victoria Police, Mr Wolf diary, 25 February 2008, 16, produced by Victoria Police in Response to a Commission Notice to Produce, VPL.2000.0001.0066 @.0081; Exhibit RC0281, ICR2958 (006), 25 February 2008, 61, VPL.2000.0003.0801

⁴¹⁵² Exhibit RC0882 Mr Wolf diary, 25 February 2008, 16, VPL.2000.0001.0066 @.0801; Exhibit RC0281, ICR2958 (006), 25 February 2008, 61, VPL.2000.0003.0801

⁴¹⁵³ Exhibit RC0882 Mr Wolf diary, 25 February 2008, 16, VPL.2000.0001.0066 @.0086

⁴¹⁵⁴ Exhibit RC0882 Mr Wolf diary, 25 February 2008, 16, VPL.2000.0001.0066 @.0086

⁴¹⁵⁵ Exhibit RC0882 Mr Wolf diary, 25 February 2008, 16, VPL.2000.0001.0066 @.0086

⁴¹⁵⁶ Exhibit RC0882 Mr Wolf diary, 26 February 2008, 21-22, VPL.2000.0001.0066 @.0086-.0087; Exhibit RC0281, ICR2958 (006), 25 February 2008, 63, VPL.2000.0003.0803

⁴¹⁵⁷ Exhibit RC0882 Mr Wolf diary, 26 February 2008, 22, VPL.2000.0001.0066 @.0087; Exhibit RC0281, ICR2958 (006), 25 February 2008, 63, VPL.2000.0003.0803

⁴¹⁵⁸ Exhibit RC0882 Mr Wolf diary, 26 February 2008, 22, VPL.2000.0001.0066 @.0087

3080. When Mr Wolf spoke to Ms Gobbo in a subsequent telephone call later that night, she asked him if there was feedback from Mr Ryan. He provided Mr Ryan's feedback to Ms Gobbo. Mr Wolf recorded that Ms Gobbo laughed and seemed to enjoy the attention. She also told him that 'Petra could not believe the amount of information and knowledge that [she] possessed.'⁴¹⁵⁹
3081. Mr O'Connell received a debrief from Mr Davey and Mr Solomon regarding their interview with Ms Gobbo.⁴¹⁶⁰ Ms Gobbo said she was not previously aware that Mr Ahmed had prior knowledge of the murders or that he knew the murder had occurred prior to discovery of bodies.⁴¹⁶¹ She had indicated she now believed that she was used by Mr Ahmed to create an alibi.⁴¹⁶² Ms Gobbo also reported having had a conversation with Mr Tony Mokbel where he claimed credit for the Hodson murders, and said something similar to 'I did one for the coppers'.⁴¹⁶³ Mr Tony Mokbel was ultimately ruled out of involvement in the murders.
3082. Mr Davey said that he did not believe any privileged information was provided by Ms Gobbo during these interviews,⁴¹⁶⁴ although there is a risk that Ms Gobbo provided such information regarding clients including Mr Tony Mokbel.⁴¹⁶⁵

28 February 2008 – Gobbo Second Interview by Petra

3083. As the interview was only partially completed, Ms Gobbo was to be interviewed again on 28 February 2008 by Mr Solomon and Mr Davey.
3084. On or around 28 February 2008, Andrew Hodson rang the Petra office and spoke to Mr Davey. He told Mr Davey that he had received information that [REDACTED] stated that [REDACTED] knew who had murdered his parents and had paid for the murders, although he did not say how he was aware of this.⁴¹⁶⁶ Mr Andrew Hodson seemed agitated and nervous. The investigators considered that he was deliberately seeking information relating to [REDACTED].⁴¹⁶⁷

⁴¹⁵⁹ Exhibit RC0882 Mr Wolf diary, 26 February 2008, 22, VPL.2000.0001.0066 @.0087; Exhibit RC0281, ICR2958 (006), 25 February 2008, 64, VPL.2000.0003.0804

⁴¹⁶⁰ Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 26, RCMP1.0146.0001.0002 @.0026

⁴¹⁶¹ Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 26, RCMP1.0146.0001.0002 @.0026

⁴¹⁶² Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 26, RCMP1.0146.0001.0002 @.0026

⁴¹⁶³ Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 26, RCMP1.0146.0001.0002 @.0026

⁴¹⁶⁴ Exhibit RC0329 Statement of Mr Cameron Davey, 13 May 2019, 4-5 [15], COM.0041.0002.0002 @.0004-0005.

⁴¹⁶⁵ Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 26, RCMP1.0146.0001.0002 @.0026; In debriefing Mr Wolf regarding her second interview with Petra investigators on 28 February 2008, she said that she 'spoke about her relationship with Tony Mokbel which took a long time' (see Exhibit RC0281 ICR2958 (006), 28 February 2008, 68, VPL.2000.0003.0808)

⁴¹⁶⁶ Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 27, RCMP1.0146.0001.0002 @.0027

⁴¹⁶⁷ Exhibit RC1347 Mr Shane O'Connell diary, 26 February 2008, 27, RCMP1.0146.0001.0002 @.0027; Exhibit RC0881 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 3 March 2008, 290, VPL.0100.0001.5402 @.5691

3085. The Petra Taskforce Management Steering Committee was informed about that call in their update of 3 March 2008.⁴¹⁶⁸ It was noted in that update that further enquiries in relation to Andrew Hodson were required.⁴¹⁶⁹
3086. On 28 February, Ms Gobbo attended the Petra offices for the continuation of her interview. Having received the call from Mr Andrew Hodson, it is apparent that Mr Davey and Mr Solomon were keen to obtain further information from her regarding her knowledge of him.
3087. Ms Gobbo told Mr Wolf after that interview that the investigators were very interested in Mr Andrew Hodson, and what Mr Andrew Hodson had told Ms Gobbo.⁴¹⁷⁰ They were also interested in Mr John Higgs. At that stage, Mr Higgs was also a suspect in the murders.
3088. Ms Gobbo reported that Mr Davey and Mr Solomon had asked her if she was prepared to help them in the future.⁴¹⁷¹ She said that they asked her to tape record conversations with Messrs Andrew Hodson and Higgs.⁴¹⁷² She told investigators that these recordings would be privileged and she did not want to have to give evidence in relation to them. She said that the investigators assured her that recordings would be a last resort.⁴¹⁷³
3089. Messrs Solomon and Davey denied that Ms Gobbo was asked to record such conversations.⁴¹⁷⁴ They further rejected the possibility that they would ask Ms Gobbo to engage in conversations with Mr Higgs and Mr Andrew Hodson.⁴¹⁷⁵
3090. Mr O'Connell said that it was 'possible' that he would be aware of any request by Mr Davey and Mr Solomon for Ms Gobbo to assist Petra investigators by tape recording such conversations. However, he said that his investigators would not necessarily discuss any plan to ask Ms Gobbo to tape record suspects on behalf of Petra with him prior to putting it to Ms Gobbo.⁴¹⁷⁶
3091. Mr Solomon rejected Mr O'Connell's evidence on this point. He said that he and Mr Davey would never have embarked on such a plan without advising Mr O'Connell who was their investigation manager, as they 'simply do not operate like that'.⁴¹⁷⁷

⁴¹⁶⁸ Exhibit RC0881 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 3 March 2008, 290, VPL.0100.0001.5402 @.5691

⁴¹⁶⁹ Exhibit RC0881 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 3 March 2008, 290, VPL.0100.0001.5402 @.5691

⁴¹⁷⁰ Exhibit RC0882 Mr Wolf diary, 28 February 2008, 27, VPL.2000.0001.0066 @.0092; Exhibit RC0281, ICR2958 (006), 28 February 2008, 68 VPL.2000.0003.0808

⁴¹⁷¹ Exhibit RC0882 Mr Wolf diary, 28 February 2008, 27, VPL.2000.0001.0066 @.0092; Exhibit RC0281, ICR2958 (006), 28 February 2008, 68 VPL.2000.0003.0808

⁴¹⁷² Exhibit RC0882 Mr Wolf diary, 28 February 2008, 27, VPL.2000.0001.0066 @.0092; Exhibit RC0281, ICR2958 (006), 28 February 2008, 68 VPL.2000.0003.0808

⁴¹⁷³ Exhibit RC0882 Mr Wolf diary, 28 February 2008, 27-28, VPL.2000.0001.0066 @.0092-0093; Exhibit RC0281, ICR2958 (006), 28 February 2008, 68, VPL.2000.0003.0808

⁴¹⁷⁴ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 2 [9]-[10], COM.0060.0001.0005 @.0002

⁴¹⁷⁵ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 12 [69] COM.0060.0001.0005 @.0012; Exhibit RC1545 Statement of Mr Cameron Davey, 4 March 2020, 3 [18], COM.0051.0002.0001 @.0003

⁴¹⁷⁶ Transcript of Mr Shane O'Connell, 21 February 2020, 14744, TRN.2020.02.21.01.P

⁴¹⁷⁷ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 12 [69] COM.0060.0001.0005 @.0012

The Polygraph Plan

3092. The evidence indicates that Petra investigators wanted to use [REDACTED] [REDACTED] to put pressure on Mr Andrew Hodson.⁴¹⁷⁸ A strategy was devised between Mr O'Connell, Mr Davey and Mr Solomon where it was determined that they would speak to Mr Andrew Hodson after [REDACTED].⁴¹⁷⁹ Mr Andrew Hodson had previously expressed to Mr Davey that he was worried about [REDACTED]. He was clearly distressed when he told them this.⁴¹⁸⁰
3093. Mr O'Connell also noted in his diary that they were considering whether Mr Andrew Hodson should undergo a polygraph test.⁴¹⁸¹ This was an unusual avenue to take.⁴¹⁸² The evidence before the Commission indicates that senior police members did not consider polygraphs to be of significant value in investigations. For example, Mr Ashton expressed little faith in their result.⁴¹⁸³
3094. The next day, 29 February 2008, Mr O'Connell telephoned Mr Sandy White to take up Ms Gobbo's offer of assistance to the Petra investigation. They discussed the plan to polygraph Mr Andrew Hodson, noting that every time Mr Andrew Hodson needed advice, he would seek out Ms Gobbo. They knew that if they put pressure on Mr Andrew Hodson, he would telephone Ms Gobbo.⁴¹⁸⁴
3095. Mr Sandy White made a note of the conversation as follows:⁴¹⁸⁵
- Andrew HODSON rang Cam DAVEY [REDACTED]. Very distressed, crying. 3838 had offered to assist and investigators want to use her. Every time he needs advice he seeks her out. If we put pressure on him he will ring her. Am considering putting AH on polygraph.*
3096. Mr O'Connell could not recall that conversation.⁴¹⁸⁶ Nor could he recall that Ms Gobbo had been tasked by the SDU, in coordination with the Petra investigation and Mr Ryan, to deal with Mr Andrew Hodson.⁴¹⁸⁷
3097. Mr Davey and Mr Solomon also denied knowledge of any tasking of Ms Gobbo by the SDU.⁴¹⁸⁸ Mr Davey said that they were not aware that the SDU had been consulted about the strategy for Mr Andrew Hodson to participate in a polygraph test, nor that Ms Gobbo was providing input in the matter.⁴¹⁸⁹

⁴¹⁷⁸ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095

⁴¹⁷⁹ Exhibit RC1347 Mr Shane O'Connell diary, 29 February 2008, 28, RCMP1.0146.0001.0002 @.0028

⁴¹⁸⁰ Exhibit RC0881 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 3 March 2008, 290, VPL.0100.0001.5402 @.5691

⁴¹⁸¹ Exhibit RC1347 Mr Shane O'Connell diary, 29 February 2008, 28, RCMP1.0146.0001.0002 @.0028

⁴¹⁸² Transcript of Mr Shane O'Connell, 21 February 2020, 14745, TRN.2020.02.21.01.P

⁴¹⁸³ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10805, TRN.2019.12.10.01.P

⁴¹⁸⁴ Exhibit RC0305 Mr Sandy White diary, 29 February 2008, 165, RCMP1.0092.0001.0001 @.0165

⁴¹⁸⁵ Exhibit RC0305 Mr Sandy White diary, 29 February 2008, 165, RCMP1.0092.0001.0001 @.0165

⁴¹⁸⁶ Transcript of Mr Shane O'Connell, 21 February 2020, 14746, TRN.2020.02.21.01.P

⁴¹⁸⁷ Transcript of Mr Shane O'Connell, 21 February 2020, 14743, TRN.2020.02.21.01.P

⁴¹⁸⁸ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 3 [15] COM.0060.0001.0005 @.0003

⁴¹⁸⁹ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 3 [14] COM.0060.0001.0005 @.0003; Exhibit RC1545 Statement of Mr Cameron Davey, 4 March 2020, 1 [6], COM.0051.0002.0001

Mr Solomon said that he and Mr Davey never sought Ms Gobbo's involvement in the matter.⁴¹⁹⁰

3098. Later that day, Mr Sandy White spoke to Mr Ryan regarding Ms Gobbo's offer to assist the investigation.⁴¹⁹¹ They determined that any contact with Ms Gobbo would go through Mr Ryan.⁴¹⁹²
3099. In a subsequent conversation between Mr Sandy White and Mr Wolf, it was noted that any contact would be co-ordinated by Mr Ryan and the SDU.⁴¹⁹³ Part of the reason for this was that Mr Ryan had a history with Ms Gobbo through the Purana investigation.⁴¹⁹⁴ It was considered that, as the investigation was very high risk, due to her occupation and her background with Mr Ryan, it was preferable to have him as her primary contact, as this was the best option to protect her.⁴¹⁹⁵
3100. During this conversation, Mr Sandy White and Mr Wolf also noted that Ms Gobbo was clearly keen to assist the investigation, a situation which concerned investigators and the SDU.⁴¹⁹⁶ They discussed the fact that Ms Gobbo needed to stop suggesting ideas and offering assistance. The risks were clear; if Ms Gobbo persisted in offering assistance, there was a higher risk her name or other facts that could reveal her identity would be included in investigators' notes. Ms Gobbo could not be protected if that happened.⁴¹⁹⁷
3101. Mr Wolf communicated this plan to Ms Gobbo. He also told her that she had to stop suggesting ideas to help.⁴¹⁹⁸ She acknowledged that to Mr Wolf, but said that it was Petra's suggestion and she wanted to look compliant.⁴¹⁹⁹ Mr Wolf warned her that things would end up in investigators notes regarding Ms Gobbo's assistance to police.⁴²⁰⁰
3102. Ms Gobbo was told that Mr Andrew Hodson might approach her once pressure had been applied by investigators. This contact between Mr Andrew Hodson and Ms Gobbo would be controlled by the SDU and Mr Ryan. Mr Wolf considered Ms Gobbo to be very excited by that.⁴²⁰¹
3103. The fact that some of the information gathered could attract legal professional privilege was a live issue to both the SDU and Petra investigators.⁴²⁰² It should have been apparent to those developing the plan

⁴¹⁹⁰ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 3 [14] COM.0060.0001.0005 @.0003; Exhibit RC1545 Statement of Mr Cameron Davey, 4 March 2020, 1 [6], COM.0051.0002.0001

⁴¹⁹¹ Exhibit RC0305 Mr Sandy White diary, 29 February 2008, 165, RCMPPI.0092.0001.0001 @.0165

⁴¹⁹² Exhibit RC0305 Mr Sandy White diary, 29 February 2008, 165, RCMPPI.0092.0001.0001 @.0165

⁴¹⁹³ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095

⁴¹⁹⁴ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095

⁴¹⁹⁵ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 31, VPL.2000.0001.0066 @.0096

⁴¹⁹⁶ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095

⁴¹⁹⁷ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095

⁴¹⁹⁸ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095; Exhibit RC0281, ICR2958 (006), 29 February 2008, 69 VPL.2000.0003.0809

⁴¹⁹⁹ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095; Exhibit RC0281, ICR2958 (006), 29 February 2008, 69-70 VPL.2000.0003.0809-0810

⁴²⁰⁰ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095; Exhibit RC0281, ICR2958 (006), 29 February 2008, 70, VPL.2000.0003.0810

⁴²⁰¹ Exhibit RC0882 Mr Wolf diary, 29 February 2008, 30, VPL.2000.0001.0066 @.0095; Exhibit RC0281, ICR2958 (006), 29 February 2008, 70, VPL.2000.0003.0810

⁴²⁰² Exhibit RC0305 Mr Sandy White diary, 29 February 2008, 165, RCMPPI.0092.0001.0001 @.0165

to encourage Mr Andrew Hodson to take a polygraph through sending Ms Gobbo under the guise of providing legal advice was impermissible given Ms Gobbo's obligations regarding client confidentiality and privilege. Additionally, Ms Gobbo would clearly not be acting in the best interests of Mr Andrew Hodson, nor would she be providing him with independent legal advice.

3104. In his statement, Mr Wolf set out his knowledge and understanding of certain duties and obligations of lawyers that he had during the time he was dealing with Ms Gobbo at the SDU.⁴²⁰³ Mr Wolf said that he understood Ms Gobbo's obligation in relation to legal professional privilege was that she 'should not talk about clients with current matters before the court, or that the person has been charged with'⁴²⁰⁴. This did not include information about ongoing or future criminal acts. Mr Wolf said he had not specifically heard of lawyer's obligations regarding confidentiality but considered that it was part of legal professional privilege. Additionally, Mr Wolf was not aware of any rules or guidelines around a lawyer's duty to act in the best interests of their client.⁴²⁰⁵ Mr Wolf held the rank of [REDACTED] and as with all SDU handlers and controllers, he had an investigative background and consequently had extensive experience in court process.⁴²⁰⁶ He would have known that a lawyer had a duty to act in her client's best interests.

3 March 2008 – Update to the Petra Taskforce Management Steering Committee

3105. The investigation of Mr Hodson was raised during the Petra Taskforce Management Committee meeting of 3 March 2008 which was attended by Messrs Overland, Cornelius, Ashton, Hollowood, Ryan and O'Connell.⁴²⁰⁷ During these meetings, a range of topics were covered due to the broad nature of the investigation.⁴²⁰⁸ The Steering Committee would be provided with an update as to the status of a range of aspects of the investigations, including the status of particular operations, the attempt to build a brief of corroboration based on Mr Williams' statement and the process of obtaining a statement from Ms Gobbo.⁴²⁰⁹ There would be discussions about whether particular inquiries were likely to be worthwhile.⁴²¹⁰ One of the topics covered during this meeting was the strategy to polygraph Mr Andrew Hodson.
3106. The written update provided to this meeting indicated that investigators had spoken to Mandy Hodson, Andrew Hodson's sister, about inconsistencies in his evidence. It also noted that Mr Andrew Hodson had telephoned the Purana Taskforce in the previous week and expressed concerns regarding Mr [REDACTED]. He had also told investigators that Mr [REDACTED] knew who had murdered his parents, and that Mr [REDACTED] had paid for the murders. He was not able to substantiate how he knew this. The update

⁴²⁰³ Exhibit RC1397 Statement of Mr Wolf, undated, 7 [16], COM.0012.0001.0001 @.0007

⁴²⁰⁴ Exhibit RC1397 Statement of Mr Wolf, undated, 7 [16], COM.0012.0001.0001 @.0007

⁴²⁰⁵ Exhibit RC1397 Statement of Mr Wolf, undated, 7 [16], COM.0012.0001.0001 @.0007

⁴²⁰⁶ Exhibit RC0622, Mr Black, 5 June 2019, [19], COM.0025.0005.0001

⁴²⁰⁷ Exhibit RC1347 Mr Shane O'Connell diary, 3 March 2008, 29, RCMP1.0146.0001.0002 @.0029

⁴²⁰⁸ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10784, TRN.2019.12.10.01.P

⁴²⁰⁹ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10784, TRN.2019.12.10.01.P

⁴²¹⁰ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10784, TRN.2019.12.10.01.P

noted that there were further enquiries pending relating to Andrew Hodson.⁴²¹¹

3107. Mr Cornelius made a note on his copy of the update as to Mr Andrew Hodson being worried about [REDACTED], and as to the 'possibility of polygraph'.⁴²¹²

3108. In his evidence to the Commission, Mr Cornelius said he recalled the 'possibility' of a polygraph test being discussed, but could not recall the specific details of the strategy.⁴²¹³ He said he was not aware of the plan to involve Ms Gobbo in her capacity as a lawyer.⁴²¹⁴ Mr Cornelius said:

*I'm surprised and I wasn't aware that within the context of Petra, we were dealing with Ms Gobbo through the Source Unit. I mean, my strong recollection and my view in relation to Ms Gobbo in relation to Petra was that she was both a person of interest who was the subject of investigation and then ultimately became a witness for us.*⁴²¹⁵

3109. He further said he was 'surprised...that we seem to have been engaging with her in relation to providing legal advice to a person that we're going to be interviewing'.⁴²¹⁶ He said that he 'would have asked questions about whether or not that was appropriate'.⁴²¹⁷ Mr Cornelius also said 'if you put yourself in Mr Hodson's shoes, I think he would, quite rightly, have concern that the person who he might have turned to for legal advice is in effect, if you like, acting on our instructions'.⁴²¹⁸

3110. Mr Cornelius also agreed that there would have been problems if it turned out that there was enough evidence to charge Mr Andrew Hodson with murder.⁴²¹⁹ He said that, had he been aware, he would have told the investigators not to do it.⁴²²⁰ He also indicated that it was concerning that the investigators who were participating in the plan were senior investigators.⁴²²¹

3111. Despite evidence indicating that Mr Ashton was at the meeting of 3 March 2008 and the 10 December 2007 meeting,⁴²²² he said that he could not recall

⁴²¹¹ Exhibit RC0880 Petra Taskforce Weekly Update, 3 March 2008, 278-282, VPL.0100.0013.0846 @.1123-1127; Exhibit RC0881 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 3 March 2008, 290, VPL.0100.0001.5402 @.5691

⁴²¹² Exhibit RC0881 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 3 March 2008, 290, VPL.0100.0001.5402 @.5691

⁴²¹³ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12327, TRN.2020.01.23.01.P

⁴²¹⁴ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12327, TRN.2020.01.23.01.P

⁴²¹⁵ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12329, TRN.2020.01.23.01.P

⁴²¹⁶ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12330, TRN.2020.01.23.01.P

⁴²¹⁷ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12330, TRN.2020.01.23.01.P

⁴²¹⁸ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12330, TRN.2020.01.23.01.P

⁴²¹⁹ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12330, TRN.2020.01.23.01.P

⁴²²⁰ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12330, TRN.2020.01.23.01.P

⁴²²¹ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12331, TRN.2020.01.23.01.P

⁴²²² Exhibit RC1347 Mr Shane O'Connell diary, 3 March 2008, 29, RCMP.0146.0001.0002 @.0029

being present at a meeting where Mr Andrew Hodson's involvement as a person of interest in the murder investigation was discussed.⁴²²³ Additionally, he could not recall Ms Gobbo being tasked in relation to Mr Andrew Hodson,⁴²²⁴ nor could he recall polygraphs being discussed during that time.⁴²²⁵ Ultimately, he agreed that it was likely that he was in attendance at that meeting.⁴²²⁶

3112. Mr Overland indicated that he could not recall the strategy to use Ms Gobbo's connection to Mr Andrew Hodson.⁴²²⁷ He recalled that his understanding of events was that Mr Andrew Hodson's involvement in the murder of his parents was a 'false lead' that needed to be 'tied off' before it went to trial.⁴²²⁸ He said that he could not recall how the strategy to encourage Mr Andrew Hodson to participate in a polygraph was achieved.⁴²²⁹ In relation to the strategy to use Ms Gobbo as part of that plan, he said that it was unlikely that he would be across that level of detail.⁴²³⁰
3113. Mr Overland did not consider it troublesome that investigators would use Ms Gobbo as both a human source and a potential legal adviser, whether or not the aim was to exclude Mr Andrew Hodson from further inquiries.⁴²³¹ Mr Overland was prepared to acknowledge that that an independent lawyer might provide more conservative advice than was given to Mr Andrew Hodson in this case, and advise Mr Andrew Hodson that he should not participate in a polygraph test.⁴²³²

4 March 2008 – The Next Petra Instalment

3114. On 4 March 2008, Mr Wolf called Mr O'Connell regarding Ms Gobbo and the 'next Petra instalment'.⁴²³³ Ms Gobbo had raised concerns about the time that she was spending in the Petra offices, as it put her at risk of further exposure.⁴²³⁴ It was agreed that she would attend the offices at a later time to attempt to ameliorate the risk of her exposure.
3115. Mr O'Connell and Mr Wolf discussed that Petra were going to tell Ms Gobbo that Mr Ryan would speak to her about 'helping out' with Mr Andrew Hodson.⁴²³⁵ Mr O'Connell relayed to Mr Wolf that Mr Ryan had advised the investigators that 'it was a difficult situation that needed to be managed properly'.⁴²³⁶ As Ms Gobbo was an eminent figure in the community and legal fraternity, things had 'to be done properly to avoid raising suspicion'.⁴²³⁷

⁴²²³ Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10785, TRN.2019.12.10.01.P

⁴²²⁴ Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10795, TRN.2019.12.10.01.P

⁴²²⁵ Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10788, TRN.2019.12.10.01.P

⁴²²⁶ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10784, TRN.2019.12.10.01.P

⁴²²⁷ Transcript of Mr Simon Overland, 19 December 2019, 11792, TRN.2019.12.19.01.P

⁴²²⁸ Transcript of Mr Simon Overland, 19 December 2019, 11792, TRN.2019.12.19.01.P

⁴²²⁹ Transcript of Mr Simon Overland, 19 December 2019, 11792, TRN.2019.12.19.01.P

⁴²³⁰ Transcript of Mr Simon Overland, 19 December 2019, 11793, TRN.2019.12.19.01.P

⁴²³¹ Transcript of Mr Simon Overland, 19 December 2019, 11793, TRN.2019.12.19.01.P

⁴²³² Transcript of Mr Simon Overland, 19 December 2019, 11794, TRN.2019.12.19.01.P

⁴²³³ Exhibit RC0822 Mr Wolf diary, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

⁴²³⁴ Exhibit RC0822 Mr Wolf diary, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

⁴²³⁵ Exhibit RC0822 Mr Wolf diary, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

⁴²³⁶ Exhibit RC0822 Mr Wolf diary, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

⁴²³⁷ Exhibit RC0822 Mr Wolf diary, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

It is unclear as to which 'investigators' Mr O'Connell was referring to. However, as stated above, Mr Davey and Mr Solomon were not apprised of the true nature of Ms Gobbo's relationship with Victoria Police, specifically the fact that she was a human source.

3116. During her third interview the following day, Mr Davey advised Ms Gobbo that he had been informed by Mr O'Connell of a direction by Mr Ryan that any proposals or engineering of conversations regarding Mr Andrew Hodson or Mr Higgs would come directly from Mr Ryan.⁴²³⁸ Mr Davey could not elaborate on why this was the case.⁴²³⁹ Ms Gobbo reported this conversation to Mr Wolf.⁴²⁴⁰
3117. Mr O'Connell said he could not recall this conversation with Mr Davey.⁴²⁴¹
3118. Mr Ryan said that he had no recollection of speaking to Mr O'Connell and telling him that he was going to manage any contact with Mr Andrew Hodson or Mr Higgs.⁴²⁴² He said that he was in the process of resigning at the time. He agreed that Ms Gobbo tape-recording Mr Andrew Hodson would involve extra risk to her, which he would expect the SDU to manage.⁴²⁴³
3119. As indicated above, Mr Solomon rejected the assertion that he and Mr Davey had asked Ms Gobbo to engage in conversations with Mr Andrew Hodson and Mr Higgs.⁴²⁴⁴
3120. It was clear that Mr Wolf was cognisant that this strategy could bring up issues of legal professional privilege. He noted in his diary an 'SDU issue':
- If Mr Hodson makes an admission and then seeks Ms Gobbo to represent him, finding an excuse not to and covering it in later pre-trial disclosures or more open hearings.*⁴²⁴⁵
3121. Investigators continued to use [REDACTED] to place pressure on Mr Hodson, who appeared very concerned about [REDACTED].⁴²⁴⁶ The investigators had determined to speak to Mr Andrew Hodson later in the week, after the [REDACTED].
3122. In a conversation that day with Mr Wolf, Ms Gobbo had raised issues regarding Mr Hodson approaching Ms Gobbo and her tape recording any conversation that went on between them. There was discussion of Ms Gobbo not being able to represent Mr Hodson, which is what he would ask her to do. Ms Gobbo said that she would have to come up with a reason why she could not represent him, which could be difficult.⁴²⁴⁷ Mr Wolf noted

⁴²³⁸ Exhibit RC0822 Mr Wolf diary, 5 March 2008, 6-7, VPL.2000.0001.0098 @.0103-0104

⁴²³⁹ Exhibit RC0822 Mr Wolf diary, 5 March 2008, 7, VPL.2000.0001.0098 @.0104

⁴²⁴⁰ Exhibit RC0822 Mr Wolf diary, 5 March 2008, 6-7, VPL.2000.0001.0098 @.0103-0104; Exhibit RC0281, ICR2958 (007), 5 March 2008, 76, VPL.2000.0003.0816

⁴²⁴¹ Transcript of Mr Shane O'Connell, 21 February 2020, 14749, TRN.2020.02.21.01.P

⁴²⁴² Transcript of Mr Gavan Ryan, 15 August 2019, 4615, RC_MPI_15Aug19_provisional

⁴²⁴³ Transcript of Mr Gavan Ryan, 15 August 2019, 4615, RC_MPI_15Aug19_provisional

⁴²⁴⁴ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 12 [68], COM.0060.0001.0005 @.0012

⁴²⁴⁵ Exhibit RC0882 Mr Wolf, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

⁴²⁴⁶ Exhibit RC0882 Mr Wolf, 4 March 2008, 2, VPL.2000.0001.0098 @.0099

⁴²⁴⁷ Exhibit RC0882 Mr Wolf, 4 March 2008, 6, VPL.2000.0001.0098 @.0103; Exhibit RC0281, ICR2958 (007), 4 March 2008, 76, VPL.2000.0003.0816

in the ICR of that conversation '(Would having dealt with Dale be enough of a conflict of interest?).'⁴²⁴⁸

5 March 2008 – Gobbo Third Interview by Petra

3123. On 5 March 2008, Ms Gobbo attended the Petra Taskforce for the continuation of her interview with Petra investigators. Ms Gobbo had told Mr Wolf the previous day that she would tell Petra investigators she did not want to be mentioned in their notes due to the risk her identity would be revealed in pre-trial disclosures.⁴²⁴⁹
3124. Following the interview Ms Gobbo told Mr Wolf that instead of writing in his day book, Mr Davey had been writing on loose paper. She said he told her that his diary for that day would reflect the fact that he had spoken to her but would contain no content on what they had spoken about.⁴²⁵⁰
3125. Mr Wolf noted whether the fact that a Petra investigator had included Ms Gobbo's name in their notes would be enough to pursue further questioning.⁴²⁵¹
3126. Mr Wolf and Ms Gobbo had a general discussion about Ms Gobbo tape recording conversations. She said that Mr Davey had guaranteed that it would not be used as evidence as he didn't want blood on his hands.⁴²⁵² Ms Gobbo had told Mr Wolf she was concerned about how a recording would be kept from people in pre-trial disclosures.⁴²⁵³ Ms Gobbo said that if the recorded conversations resulted in people being charged, Ms Gobbo would have issues as she would not be able to represent them.⁴²⁵⁴
3127. Ms Gobbo also told Mr Wolf that she believed that Mr Andrew Hodson would talk openly to her over dinner, that he would either call she or solicitor, Mr Jim Valos, but that if the pressure was applied after hours Mr Valos would not answer his phone and naturally Mr Andrew Hodson would call her and she could then suggest they speak over dinner.⁴²⁵⁵ Ms Gobbo expressed concern that Mr Andrew Hodson might say something crucial or even confess which would be hard not to act upon.⁴²⁵⁶
3128. Mr Solomon said that he was unaware that Ms Gobbo had been involved in speaking to Mr Andrew Hodson and offering him advice. Additionally, he

⁴²⁴⁸ Exhibit RC0281, ICR2958 (007), 4 March 2008, 76, VPL.2000.0003.0816

⁴²⁴⁹ Exhibit RC0281, ICR2958 (007), 4 March 2008, 76, VPL.2000.0003.0816

⁴²⁵⁰ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 6, VPL.2000.0001.0098 @.0103; See also Exhibit RC0281, ICR2958 (007), 5 March 2008, 76, VPL.2000.0003.0816

⁴²⁵¹ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 6, VPL.2000.0001.0098 @.0103; See also Exhibit RC0281, ICR2958 (007), 5 March 2008, 76, VPL.2000.0003.0816

⁴²⁵² Exhibit RC0882 Mr Wolf diary, 5 March 2008, 8, VPL.2000.0001.0098 @.0105; See also Exhibit RC0281, ICR2958 (007), 4 March 2008, 78, VPL.2000.0003.0818

⁴²⁵³ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 7, VPL.2000.0001.0098 @.0104; See also Exhibit RC0281, ICR2958 (007), 5 March 2008, 77, VPL.2000.0003.0817

⁴²⁵⁴ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 7, VPL.2000.0001.0098 @.0104; See also Exhibit RC0281, ICR2958 (007), 5 March 2008, 77, VPL.2000.0003.0817

⁴²⁵⁵ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 8, VPL.2000.0001.0098 @.0105; See also Exhibit RC0281, ICR2958 (007), 5 March 2008, 78, VPL.2000.0003.0819

⁴²⁵⁶ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 8, VPL.2000.0001.0098 @.0105; See also Exhibit RC0281, ICR2958 (007), 5 March 2008, 78, VPL.2000.0003.0819

said he was unaware that the communications should happen over the weekend so that he can only speak to her.⁴²⁵⁷

3129. In evidence, Mr Overland and Mr Ashton denied knowledge of the plan to telephone Mr Andrew Hodson out of business hours so that he would be more likely to contact Ms Gobbo, as opposed to Mr Valos.⁴²⁵⁸ Mr Ashton agreed that this was 'troubling'.⁴²⁵⁹

7 March 2008 – Further Discussion of Plans for Hodson

3130. On 7 March 2008 at 10:05 am, Mr Wolf called Mr O'Connell to discuss Ms Gobbo's attendance at Petra the day before. They noted that Ms Gobbo had 'overreacted' to the fact she had to speak to Mr Ryan and could not speak directly to investigators. Additionally, they discussed the fact she 'played' the policeman suggesting they record the conversation with Mr Andrew Hodson using a listening device.⁴²⁶⁰
3131. They also discussed the fact that Petra were going to call Mr Andrew Hodson that day, 7 March, to arrange a chat for the following Monday.⁴²⁶¹ They would mention [REDACTED], which they expected would put pressure on Mr Andrew Hodson. When Mr Andrew Hodson came in they would offer for him to take a polygraph.⁴²⁶² Later that day, Mr O'Connell told Mr Wolf that the call had already been made by investigators, unbeknown to him.⁴²⁶³
3132. That evening, Mr Wolf received a call from Ms Gobbo. During the conversation, Mr Wolf told her that Petra investigators had called Mr Andrew Hodson. She was not happy that Petra investigators had not listened to her suggestion to call after hours. Ms Gobbo said that 'that everything they did was wrong, the call to come in was wrong, the time was wrong and there would not be enough time for a recording device to get to Ms Gobbo.'⁴²⁶⁴ Ms Gobbo appeared set on the fact that the conversation should be recorded, and she was 'outraged' on being told that there would be no recording of the conversation. She was told that it was 'too dangerous' and that if a recording was made, it would eventually be called for and reveal Ms Gobbo was assisting police.⁴²⁶⁵ Mr Wolf told Ms Gobbo that she would face the same issues that she was facing now in relation to Mr Thomas (the committal hearing of Orman was occurring around this time and there was concern that Ms Gobbo's role with Mr Thomas would be discovered).⁴²⁶⁶ Ms Gobbo disagreed, and said that the matters were not similar. She tried to 'justify' the recording on the basis she would use it to refresh her memory as to the lengthy, three-hour conversation. She threatened to go and buy her

⁴²⁵⁷ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 3 [13], COM.0060.0001.0005 @.0003

⁴²⁵⁸ Transcript of Mr Simon Overland, 19 December 2019, 11793, TRN.2019.12.19.01.P; Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10792, TRN.2019.12.10.01.P

⁴²⁵⁹ Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10792, TRN.2019.12.10.01.P

⁴²⁶⁰ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 10, VPL.2000.0001.0098 @.0107

⁴²⁶¹ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 10, VPL.2000.0001.0098 @.0107

⁴²⁶² Exhibit RC0882 Mr Wolf diary, 7 March 2008, 10, VPL.2000.0001.0098 @.0107

⁴²⁶³ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 11, VPL.2000.0001.0098 @.0108

⁴²⁶⁴ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 12, VPL.2000.0001.0098 @.0109

⁴²⁶⁵ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 12-13, VPL.2000.0001.0098 @.0109-0110; Exhibit RC0281, ICR2958 (007), 7 March 2008, 81, VPL.2000.0003.0821

⁴²⁶⁶ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 13, VPL.2000.0001.0098 @.0110; Exhibit RC0281, ICR2958 (007), 7 March 2008, 81, VPL.2000.0003.0821

own tape recorder and make a transcript of the conversation. She said that, once she had done that, she would destroy the tape, and there would be no issue.⁴²⁶⁷

3133. On 8 March 2008, Mr Wolf spoke to Mr Ryan and informed him that Ms Gobbo wanted to make her own recordings. He noted that Mr Ryan agreed that it was wrong for her to do so.⁴²⁶⁸

9 March 2008 – Gobbo Reports Contact from Hodson

3134. On 9 March 2008, Mr Wolf had a conversation with Ms Gobbo.⁴²⁶⁹ Ms Gobbo reported having received a call from Mr Andrew Hodson. She said she had taken five pages of notes. Mr Andrew Hodson told her that he had been contacted by Petra investigators. He told her that he wanted to meet with her before and after he met with the investigators. Mr Andrew Hodson had some concerns.⁴²⁷⁰

3135. Ms Gobbo said she had tried to contact Mr Davey on a number that he said he was on 24 hours a day but could not get through. Mr Wolf and Ms Gobbo had a dispute as to whether she should contact Mr Davey directly. Ms Gobbo was told that all communication should go through the handlers, who would then disseminate that information to Mr Ryan.⁴²⁷¹ Ms Gobbo told Mr Wolf she wanted to be directly involved in the communication process.⁴²⁷² Ms Gobbo was reminded by Mr Wolf not to record her conversation with Mr Andrew Hodson.

3136. Mr Wolf then updated Mr O'Connell and Mr Ryan about that conversation.⁴²⁷³ During these conversations, they discussed the fact that Ms Gobbo could make recordings of those conversations against instructions.⁴²⁷⁴

3137. Later that day, Mr Wolf was again contacted by Ms Gobbo.⁴²⁷⁵ They again discussed her conversation with Mr Andrew Hodson. Mr Andrew Hodson had told her that he was concerned about the Petra Taskforce contacting him. Ms Gobbo wanted guidance from Mr Wolf on what she should and should not say. Mr Wolf told her that that kind of guidance was not required. Ms Gobbo disagreed.⁴²⁷⁶

3138. Ms Gobbo then described some of the advice she had given Mr Andrew Hodson. She had told Mr Andrew Hodson that Petra must want to formally interview him, and that he should contact the investigator and ask if they

⁴²⁶⁷ Exhibit RC0882 Mr Wolf diary, 7 March 2008, 13, VPL.2000.0001.0098 @.0110; Exhibit RC0281, ICR2958 (007), 7 March 2008, 81-2, VPL.2000.0003.0821-0822

⁴²⁶⁸ Exhibit RC0882 Mr Wolf diary, 8 March 2008, 14, VPL.2000.0001.0098 @.0111-0112

⁴²⁶⁹ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113; Exhibit RC0281, ICR2958 (008), 9 March 2008, 85, VPL.2000.0003.0825

⁴²⁷⁰ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113; Exhibit RC0281, ICR2958 (008), 9 March 2008, 85, VPL.2000.0003.0825

⁴²⁷¹ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113; Exhibit RC0281, ICR2958 (008), 9 March 2008, 85, VPL.2000.0003.0825

⁴²⁷² Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113; Exhibit RC0281, ICR2958 (008), 9 March 2008, 85, VPL.2000.0003.0825

⁴²⁷³ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113

⁴²⁷⁴ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113

⁴²⁷⁵ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 17, VPL.2000.0001.0098 @.0114; Exhibit RC0281, ICR2958 (008), 9 March 2008, 86, VPL.2000.0003.0826

⁴²⁷⁶ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 17, VPL.2000.0001.0098 @.0114; Exhibit RC0281, ICR2958 (008), 9 March 2008, 86, VPL.2000.0003.0826

were proposing to interview him under caution. Ms Gobbo told Mr Wolf that she had advised Mr Andrew Hodson that if he had nothing to hide there would be no problem. Ms Gobbo was panicked about having given this advice. Mr Wolf reassured her that providing this advice was normal in the circumstances, and it would have been suspicious if she had not told him to do that.⁴²⁷⁷

3139. In his evidence to the Commission, Mr O'Connell agreed that issues arose in the context of Ms Gobbo being a source and acting as legal representative for Mr Andrew Hodson.⁴²⁷⁸ He acknowledged that she was 'clearly not independent and the perception may be that she's not acting in the best interests of Mr Hodson.'⁴²⁷⁹
3140. It is apparent from this exchange that Ms Gobbo impermissibly communicated confidential advice given to Mr Andrew Hodson to Mr Wolf. Rather than preventing Ms Gobbo from relaying this advice, or refusing to listen to it, Mr Wolf instead received it willingly, in full knowledge that Ms Gobbo's conversation with Mr Andrew Hodson had clearly occurred in circumstances in which he would have considered her to be acting as his legal adviser. This was a breach of Ms Gobbo's duty of confidentiality to Mr Andrew Hodson. Additionally, it was a breach of Ms Gobbo's obligations regarding legal professional privilege as she communicated information to Mr Wolf regarding advice she gave Mr Andrew Hodson about what to say to Mr Davey.⁴²⁸⁰
3141. Ms Gobbo reported further that Mr Andrew Hodson arranged to meet Ms Gobbo before and after his interview.⁴²⁸¹
3142. Later that day, shortly before 7:00pm, Mr Wolf had a further conversation with Ms Gobbo. She was not happy that Mr Davey had not contacted her, even though she had been directed that all communication had to come through her handler. Ms Gobbo wanted to be briefed on what Petra was going to say or show to Mr Andrew Hodson. Ms Gobbo was told that it was unnecessary for her to know, and that she was more than capable of carrying out the 'task'.⁴²⁸²
3143. The following morning, Mr Wolf and Mr O'Connell discussed Ms Gobbo trying to contact Mr Davey. It was noted that Mr Davey had been directed that communication was to go through Mr Ryan after he had sought clarification on whether he could return the messages left by Ms Gobbo.⁴²⁸³

⁴²⁷⁷ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 18, VPL.2000.0001.0098 @.0115; Exhibit RC0281, ICR2958 (008), 9 March 2008, 87, VPL.2000.0003.0827

⁴²⁷⁸ Transcript of Mr Shane O'Connell, 21 February 2020, 14755, TRN.2020.02.21.01.P

⁴²⁷⁹ Transcript of Mr Shane O'Connell, 21 February 2020, 14755, TRN.2020.02.21.01.P

⁴²⁸⁰ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 17-18, VPL.2000.0001.0098 @.0114-0115; Exhibit RC0281, ICR2958 (008), 9 March 2008, 86, VPL.2000.0003.0826

⁴²⁸¹ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 18, VPL.2000.0001.0098 @.0115; Exhibit RC0281, ICR2958 (008), 9 March 2008, 86, VPL.2000.0003.0826

⁴²⁸² Exhibit RC0882 Mr Wolf diary, 9 March 2008, 18-19, VPL.2000.0001.0098 @.0115-0116; Exhibit RC0281, ICR2958 (008), 9 March 2008, 88, VPL.2000.0003.0828

⁴²⁸³ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 19, VPL.2000.0001.0098 @.0116

10 March 2008 – Andrew Hodson attendance at Petra

3144. On 10 March 2008, at 7:50am, Mr O'Connell spoke to Messrs Davey and Solomon in relation to the plan to interview Mr Andrew Hodson scheduled at 11:00am that day.⁴²⁸⁴
3145. Mr Wolf received calls from both Mr O'Connell and Ms Gobbo between 11:15am and 11:21am to advise him that Mr Andrew Hodson was at the Petra Taskforce office. Ms Gobbo said that Mr Andrew Hodson would call her afterwards.⁴²⁸⁵
3146. During his interview with Messrs Davey and Solomon, Mr Andrew Hodson denied having any direct or indirect involvement in his parents' death and consented to the polygraph test.⁴²⁸⁶
3147. Mr Wolf received a call from Mr O'Connell at midday. Mr O'Connell advised that Mr Andrew Hodson had been asked to do a polygraph test and requested that Ms Gobbo 'not to talk Hodson out of it and to allude to it being safe for Hodson to participate in it, any issues in him doing it etc'.⁴²⁸⁷
3148. In his evidence to the Commission, Mr Ashton agreed that this course of action was inappropriate as Mr Andrew Hodson could believe that she was providing legal advice when telling him to participate in the polygraph, and more importantly this was known to Victoria Police. He further stated, 'it certainly ought be, ought be disclosed at the very least, yes, but it's not something you'd want to be doing'.⁴²⁸⁸
3149. At 12:03pm, Mr Wolf called Ms Gobbo, and told her that Mr Andrew Hodson had left the Petra Taskforce office. Mr Wolf did not divulge the polygraph being put to Mr Andrew Hodson. In response to Ms Gobbo asking what they did, Mr Wolf noted that he said that 'they have done something which is not standard and different'. Mr Wolf also noted that Ms Gobbo wanted more information but was not given any.⁴²⁸⁹
3150. At 1:12pm, Ms Gobbo called Mr Wolf after speaking to Mr Andrew Hodson. Ms Gobbo said that Mr Andrew Hodson had brought up [REDACTED], and her view was that he was fixated on [REDACTED]. Mr Andrew Hodson had told her that police believed someone had given the killer(s) the layout of the house and had put to him the proposition that he could have given someone the layout for a 'run through'. Ms Gobbo said she had discussed the legalities of this with him, and that if he had done that, he would be an accessory.
3151. Ms Gobbo said that Mr Andrew Hodson told her that the police had put the proposition of his participating in a lie detector test to him, and that he wanted a legal opinion. Ms Gobbo reported having advised that from a legal point of view the test was not valid. Mr Wolf noted in brackets that Ms

⁴²⁸⁴ Exhibit RC1347 Mr Shane O'Connell diary, 10 March 2008, 31, RCMP1.0146.0001.0002 @.0031

⁴²⁸⁵ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 21, VPL.2000.0001.0098 @.0118; Exhibit RC0281, ICR2958 (008), 10 March 2008, 89, VPL.2000.0003.0829

⁴²⁸⁶ Exhibit RC1347 Mr Shane O'Connell diary, 10 March 2008, 31, RCMP1.0146.0001.0002 @.0031

⁴²⁸⁷ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 21, VPL.2000.0001.0098 @.0118

⁴²⁸⁸ Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10799, TRN.2019.12.10.01.P

⁴²⁸⁹ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 21, VPL.2000.0001.0098 @.0118; Exhibit RC0281, ICR2958 (008), 10 March 2008, 89, VPL.2000.0003.0829

Gobbo had not advised Mr Andrew Hodson that a transcript of the polygraph could be admissible as evidence in a trial.⁴²⁹⁰

3152. It is submitted that the evidence demonstrates that by communicating this information, Ms Gobbo had impermissibly communicated confidential and privileged communications to Mr Wolf that she had with her client, without his consent. It is submitted that it is also clear that Mr Wolf willingly received that information from Ms Gobbo.

28 March 2008 – Further Issue with Hodson Polygraph

3153. The SDU and investigators took steps to ensure that Ms Gobbo did not give Mr Andrew Hodson any advice that would dissuade him from participating in the polygraph test. Mr Andrew Hodson had been trying to contact Ms Gobbo. Mr O'Connell told Mr Fox that he did not want any contact that may change his mind. Mr Fox said that he would inform Ms Gobbo of that.⁴²⁹¹
3154. On 28 March 2008, Mr Fox, who had taken over as primary handler for Ms Gobbo at that time, received a call from Mr O'Connell to inform him that Mr Andrew Hodson had contacted him to advise that he was not prepared to do the lie detector test.⁴²⁹² Mr O'Connell also told him that he was currently talking to Mr Davey.⁴²⁹³
3155. Ms Gobbo was in Bali at the time. She texted Mr Fox at 12:19pm, quoting a message from Mr Andrew Hodson asking her to call asap.⁴²⁹⁴
3156. At 12:21pm Mr Fox spoke with Mr O'Connell, who had advised him that Mr Andrew Hodson had made a 40 minute long call to investigators, during which he refused to come in. However, he subsequently changed his mind and consented to being collected by investigators.⁴²⁹⁵
3157. Mr O'Connell told Mr Fox he did not want 'any contact that may change his mind'. Mr Fox noted in his diary that he advised he would let Ms Gobbo know.⁴²⁹⁶
3158. Later that day, Mr Andrew Hodson participated in the polygraph examination.⁴²⁹⁷

April - May 2008 – Reporting of Polygraph

3159. On 14 April 2008, the Petra Taskforce Management Committee update indicated that Mr Andrew Hodson had participated in the polygraph

⁴²⁹⁰ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 22-23, VPL.2000.0001.0098 @.0119-0120; Exhibit RC0281, ICR2958 (008), 10 March 2008, 89-90, VPL.2000.0003.0829-0830

⁴²⁹¹ Exhibit RC0507 Mr Fox, 28 March 2008, 31, VPL.2000.0001.3534 @.3563

⁴²⁹² Exhibit RC0507 Mr Fox, 28 March 2008, 30, VPL.2000.0001.3534 @.3563

⁴²⁹³ Exhibit RC0507 Mr Fox, 28 March 2008, 30, VPL.2000.0001.3534 @.3563

⁴²⁹⁴ Exhibit RC0507 Mr Fox, 28 March 2008, 31, VPL.2000.0001.3534 @.3564; Exhibit RC0281, ICR2958 (011), 28 March 2008, 123, VPL.2000.0003.0863

⁴²⁹⁵ Exhibit RC0507 Mr Fox, 28 March 2008, 31, VPL.2000.0001.3534 @.3564

⁴²⁹⁶ Exhibit RC0507 Mr Fox, 28 March 2008, 31, VPL.2000.0001.3534 @.3564; Exhibit RC0281, ICR2958 (011), 28 March 2008, 123, VPL.2000.0003.0863

⁴²⁹⁷ Exhibit RC1558 Mr Cameron Davey diary, 28 March 2008, 87, VPL.0005.0100.0044 @.0130; Exhibit RC1347 Mr Shane O'Connell diary, 28 March 2008, 34 RCMPI.0146.0001.0002 @.0034

examination and advised that he had denied any prior knowledge of, or involvement in, his parents' murder.⁴²⁹⁸

3160. On 1 May 2008, Mr O'Connell advised Mr Fox that investigators had spoken to Mr Andrew Hodson and advised him that he had failed the lie detector test. It was anticipated that Mr Andrew Hodson would want to speak with Ms Gobbo. Mr Fox would update Mr O'Connell if Mr Andrew Hodson and Ms Gobbo did meet.⁴²⁹⁹
3161. On 12 May 2008, the Petra Taskforce Management Committee were told that Mr Andrew Hodson had been or was to be spoken to regarding the outcomes of the polygraph examination.⁴³⁰⁰
3162. On 23 May 2008, Mr O'Connell went to see Mr Andrew Hodson to give him the 'coaches address'[sic] on his status in the investigation, and that he had failed the lie detector test.⁴³⁰¹ Mr O'Connell had informed Mr Fox that he would do this.⁴³⁰² Approximately ten minutes later, Mr Andrew Hodson rang Ms Gobbo, panicking that Mr O'Connell had rung him and requested that he attend the police station. He said that he would ring when he got out. Ms Gobbo informed Mr Fox of this.⁴³⁰³
3163. At 12:50pm, Ms Gobbo advised that she had spoken to Mr Andrew Hodson again. He said that police had told him that they wanted him to make a statement implicating ██████████ in his parents' murders. Mr Andrew Hodson said that he was firm that ██████████ was not involved, and that 'if he did he would have killed him himself'. This was a reference to his mother, as Andrew 'could not care less about his father.'⁴³⁰⁴ The content of this call was verbally disseminated to Mr O'Connell.⁴³⁰⁵
3164. Mr O'Connell told the Commission that the 'coach's address' conversation was concerned with the fact that investigators considered that Mr Andrew Hodson could offer Petra more information.⁴³⁰⁶ He said that he 'doubt[ed] very much whether it would have been so blatant or blunt as to suggest he needed to make a statement against ██████████'.⁴³⁰⁷
3165. Mr Steven Smith, who subsequently took over from Mr O'Connell as the head of Purana in July 2008, indicated to the Commission that he '*wouldn't be happy with that*', referring to a plan to steer Mr Andrew Hodson towards Ms Gobbo for advice.⁴³⁰⁸ He said that there were significant issues in relation to the conflict arising out of that, particularly given her prior involvement in the matter, referring to her being the first person that Mr Andrew Hodson called the night he discovered his parents' bodies and her

⁴²⁹⁸ Exhibit RC1770 Petra Taskforce Weekly Update, 14 April 2008, 2, VPL.0100.0013.0846 @.1119

⁴²⁹⁹ Exhibit RC0507 Mr Fox diary, 1 May 2008, 24-25, VPL.2000.0001.3687 @.3710-3711

⁴³⁰⁰ Exhibit RC1770 Petra Taskforce Weekly Update, 12 May 2008, 2, VPL.0100.0013.0846 @.1113

⁴³⁰¹ Exhibit RC0507 Mr Fox diary, 23 May 2008, 66, VPL.2000.0001.3753 @.3817

⁴³⁰² Exhibit RC0507 Mr Fox diary, 23 May 2008, 66, VPL.2000.0001.3753 @.3817

⁴³⁰³ Exhibit RC0507 Mr Fox diary, 23 May 2008, 66, VPL.2000.0001.3753 @.3817; See also Exhibit RC0281, ICR2958 (020), 23 May 2008, 342, VPL.2000.0003.1082

⁴³⁰⁴ Exhibit RC0507 Mr Fox diary, 23 May 2008, 66, VPL.2000.0001.3753 @.3817; See also Exhibit RC0281, ICR2958 (020), 23 May 2008, 342, VPL.2000.0003.1082

⁴³⁰⁵ Exhibit RC0281, ICR2958 (020), 23 May 2008, 342, VPL.2000.0003.1082

⁴³⁰⁶ Transcript of Mr Shane O'Connell, 21 February 2020, 14763, TRN.2020.02.21.01.P

⁴³⁰⁷ Transcript of Mr Shane O'Connell, 21 February 2020, 14763, TRN.2020.02.21.01.P

⁴³⁰⁸ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13921, TRN.2020.02.12.01.P

association with Mr Andrew Hodson.⁴³⁰⁹ Mr Smith said that he would not have allowed that to occur. He accepted that, if police members set out on a deliberate path to steer a suspect to get advice from a lawyer who was essentially a police agent, that would be conduct that could have a tendency to pervert the course of justice.⁴³¹⁰

3166. Mr Ashton said that, if he had been provided with information regarding this strategy in his capacity as a member of the OPI, it would have required it be disclosed, as they 'couldn't keep something like that quiet'.⁴³¹¹ He said that, if he had been aware of this conduct, he 'would be wanting to do that, asking why the Taskforce would be wanting to do that'.⁴³¹²
3167. Mr Solomon said that he considered that there was no need for Ms Gobbo to be involved in the matter, as he and Mr Davey were dealing with Mr Andrew Hodson and had his full co-operation.⁴³¹³ Whilst that might be so, it is clear that assistance was at least encouraged in part by the advice that Ms Gobbo gave him.
3168. It is submitted that, in effect, it appears that Mr Ryan and Mr O'Connell were not being transparent with the investigators leading the investigation and were in effect along with the SDU and Ms Gobbo, running a parallel strategy to ensure Mr Andrew Hodson participated in a polygraph examination.
3169. In evidence, Mr Ryan could not recall 'controlling or deciding or finalising any decision to use conversations between Gobbo and Hodson'. He considered that it was likely he was on leave or at the Purana Taskforce so he would not have received that information or made any decisions regarding pursuing that strategy.⁴³¹⁴
3170. Mr Ryan was requested to provide a supplementary statement to the Commission, having been asked to address these issues which became apparent following his being called to give oral evidence. In relation to the Hodson tasking of Ms Gobbo he stated that he was not part of the Petra Taskforce in February and March 2008, rather he was at the Purana Taskforce, although had recollections of Mr O'Connell contacting him from time to time. He stated he never would have spoken with Ms Gobbo. Mr Ryan said he had no memory of being an intermediary or contact as to matters concerning Mr Andrew Hodson.⁴³¹⁵
3171. Mr Ryan's diary for the period from November 2007 and through this period was not able to be located during the Commission, however the Commission obtained a number of pages of Mr Ryan's diary which were held by the IBAC, presumably produced for the IBAC hearings in 2014. These pages indicate that on 13 November 2007, 17 January 2008, 18 February 2008, and on an unspecified date following this he was attending

⁴³⁰⁹ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13922, TRN.2020.02.12.01.P

⁴³¹⁰ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13922, TRN.2020.02.12.01.P

⁴³¹¹ Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10793, TRN.2019.12.10.01.P

⁴³¹² Transcript of Chief Commissioner Graham Ashton, 10 December 2020, 10794, TRN.2019.12.10.01.P

⁴³¹³ Exhibit RC1547 Further statement of Detective Sergeant Solon (Sol) Solomon, 2 March 2020, 2 [14], COM.0060.0001.0005 @.0002

⁴³¹⁴ Transcript of Mr Gavan Ryan, 14 August 2019, 4548-9, TRN.2019.08.14.01.P

⁴³¹⁵ Exhibit RC1528 Statement of Mr Gavan Ryan, 5 May 2020, 4-5 [12]-[17], VPL.0014.0039.0025 @.0028-.0029.

meetings and providing briefings to Command and the Petra Taskforce Management Committee in relation to both the Petra and Purana Taskforces.⁴³¹⁶

3172. The contemporaneous evidence suggests that Mr Ryan was involved in the tasking of Ms Gobbo to Mr Andrew Hodson, in circumstances where it was known Mr Andrew Hodson would regard her as a legal advisor.

Paul Dale Notes

Background

3173. The Petra Taskforce was also seeking documents provided by Mr Dale to Ms Gobbo whilst he was in prison.
3174. On 7 December 2003, Ms Gobbo visited Mr Dale in prison after he had been arrested in relation to the Dublin Street burglary. He provided her with handwritten notes containing everything that he thought was relevant for his bail application.⁴³¹⁷ He instructed Ms Gobbo to hand those notes to his solicitor, Tony Hargreaves.⁴³¹⁸ Ms Gobbo recalled that the notes related to the operations that Mr Terrence Hodson had been involved in.⁴³¹⁹ She accepted that the notes contained matters that would enable attacks to be made on Mr Terrence Hodson's credibility 'down the track'.⁴³²⁰
3175. Ms Gobbo said that she provided a copy of the notes to Mr Hargreaves but also retained a copy for herself as Mr Dale asked her to '*use them for anyone that...they may assist because they related to Hodson being an informer and Hodson's role.*'⁴³²¹
3176. Mr Dale said he was advised that he could only be represented by Mr Hargreaves and an alternate counsel representing him, if he was to receive Police Association funding for the matter.⁴³²² Despite there being discussions about alternate counsel being engaged to represent him, Mr Dale still considered that Ms Gobbo was acting for him because he says he kept meeting with her and discussing his legal matters.⁴³²³

*I still believed she was acting for me, because I kept continually meeting with her and discussing criminal matters, my issues, my matters. When I say she's acting for me, you're right, she couldn't act at court for me, I guess, but I was still seeking her out for advice.*⁴³²⁴

Petra Want Dale Notes

3177. In a conversation between Ms Gobbo and Mr Wolf following her interview with Petra investigators on 5 March 2008, Ms Gobbo said that the investigators had asked her if she had any material Paul Dale had supplied

⁴³¹⁶ Exhibit RC0312 Mr Gavan Ryan diary, 13 November 2007, 17 January 2008, 18 February 2008, IBAC.0010.0001.0528 @.0001-0005.

⁴³¹⁷ Transcript of Mr Paul Dale, 21 June 2019, 2743 [6]-[17], TRN.2019.06.21.01.P

⁴³¹⁸ Transcript of Mr Paul Dale, 21 June 2019, 2744 [34]-[37], TRN.2019.06.21.01.P

⁴³¹⁹ Transcript of Ms Nicola Gobbo, 5 February 2020, 13140, TRN.2020.02.05.01.P

⁴³²⁰ Transcript of Ms Nicola Gobbo, 5 February 2020, 13140, TRN.2020.02.05.01.P

⁴³²¹ Transcript of Ms Nicola Gobbo, 5 February 2020, 13140-1, TRN.2020.02.05.01.P

⁴³²² Transcript of Mr Paul Dale, 21 June 2019, 2745 [27]-[37], TRN.2019.06.21.01.P

⁴³²³ Transcript of Mr Paul Dale, 21 June 2019, 2745 [42]-[47], TRN.2019.06.21.01.P

⁴³²⁴ Transcript of Mr Paul Dale, 21 June 2019, 2745-46 [42]-[1], TRN.2019.06.21.01.P

to her about informers. Ms Gobbo told them that Mr Dale had given her some notes whilst he was in custody, but she could not recall exactly where they were.⁴³²⁵ Ms Gobbo told Mr Wolf she believed she had provided a copy to the SDU.⁴³²⁶ She also said that there was 'a lot' in the notes.⁴³²⁷

3178. In a subsequent call to Mr Wolf from Mr O'Connell on 7 March 2008, Mr O'Connell told Mr Wolf he could not recall investigators asking Ms Gobbo for Paul Dale notes.⁴³²⁸

3179. In recounting these events to the Commission, Ms Gobbo said:

MS GOBBO: I kept a copy of those notes. I don't think they were of any use whatsoever. And years, obviously years later when the Petra Task Force were talking to me, um, and seeking a witness statement, um, I remembered that I had notes and they asked for them, um, and after some, um, reluctance on my part, I was, um, and again I shouldn't have done it, but I was convinced, um, to hand them over.

MR WINNEKE: Convinced by whom?

MS GOBBO: Um, I can't remember if it was, um, Sol Solomon and Cameron Davey and Shane, um - oh, sorry, I just can't think of his surname.

MR WINNEKE: O'Connell?

*MS GOBBO: Yes, sorry. Thank you.*⁴³²⁹

3180. On 9 March 2008, during a telephone call from Mr Wolf to Mr Ryan, Mr Ryan indicated that he would confirm if Petra had a copy of the notes.⁴³³⁰

3181. During subsequent conversations with Mr Wolf, Ms Gobbo told him that she had given the notes to Mr Fox previously.⁴³³¹ She said that she had left them on the tyre of her car for Mr Fox to collect.⁴³³² She also said that they could be given to Petra.⁴³³³

Ryan Had Read Dale Notes

3182. On 19 March 2008, Mr Wolf told Mr Fox that he had been contacted by Mr O'Connell, who had informed him that Mr Davey had contacted Ms Gobbo

⁴³²⁵ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 7, VPL.2000.0001.0098 @.0104; Exhibit RC0281, ICR2958 (007), 5 March 2008, 77, VPL.2000.0003.0817

⁴³²⁶ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 7, VPL.2000.0001.0098 @.0104; Exhibit RC0281, ICR2958 (007), 5 March 2008, 77, VPL.2000.0003.0817

⁴³²⁷ Exhibit RC0882 Mr Wolf diary, 5 March 2008, 7, VPL.2000.0001.0098 @.0104; Exhibit RC0281, ICR2958 (007), 5 March 2008, 77, VPL.2000.0003.0817

⁴³²⁸ Exhibit RC0882 Mr Wolf diary, 6 March 2008, 10, VPL.2000.0001.0098 @.0107

⁴³²⁹ Transcript of Ms Nicola Gobbo, 5 February 2020, 13141, TRN.2020.02.05.01.P

⁴³³⁰ Exhibit RC0882 Mr Wolf diary, 9 March 2008, 16, VPL.2000.0001.0098 @.0113

⁴³³¹ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 19, VPL.2000.0001.0098 @.0116; Exhibit RC0281, ICR2958 (008), 10 March 2008, 88, VPL.2000.0003.0828

⁴³³² Exhibit RC0882 Mr Wolf diary, 10 March 2008, 19, VPL.2000.0001.0098 @.0116; Exhibit RC0281, ICR2958 (008), 10 March 2008, 88, VPL.2000.0003.0828

⁴³³³ Exhibit RC0882 Mr Wolf diary, 10 March 2008, 20, VPL.2000.0001.0098 @.0117; Exhibit RC0281, ICR2958 (008), 10 March 2008, 88, VPL.2000.0003.0828

looking for 'Paul Dale documents'. Mr Fox noted that Mr Davey should not have done this.⁴³³⁴ As indicated above, investigators had been told not to contact Ms Gobbo directly. As Mr Davey was not aware of Ms Gobbo's status as a human source, or her relationship with the SDU, Ms Gobbo could not advise him that she had given the notes to Mr Fox. Rather, Mr Wolf reported that Ms Gobbo had told Mr Davey that she given the notes to Mr Ryan. Mr O'Connell also confirmed that Mr Ryan had the documents.⁴³³⁵

3183. A few hours later, at 3:40pm, Mr Fox returned a call to Ms Gobbo.⁴³³⁶ She told him that Mr Davey had rung her wanting a copy of the documents she had previously spoken about, and to go through her old phones for numbers of persons of interest for Petra. Ms Gobbo confirmed to Mr Fox that she had told Mr Davey that she had given the documents to Mr Ryan. She said that Mr Davey was indifferent to this and wanted her to ring him by 4:00 pm with the document.⁴³³⁷ Mr Fox told her there was no need to do that, and Mr Davey should not have rung her. He reassured Ms Gobbo that the fact that he rung her meant that he did not know her status as a human source.⁴³³⁸
3184. At 3:48pm that day, Mr Fox spoke to Mr O'Connell, who confirmed Mr Davey had been told that Mr Ryan had the documents and that Mr Davey was not expecting a call back from Ms Gobbo. Mr O'Connell advised Mr Fox that once he returned from holidays, he would speak to Mr Fox about the Dale documents.⁴³³⁹
3185. At 3:51pm, Mr Fox spoke to Ms Gobbo and told her there was no need to ring Mr Davey back. He also reassured her that the document had been seen by Mr Ryan, and it had never left the possession of the SDU.⁴³⁴⁰
3186. On 20 March 2008, Mr Fox and Mr O'Connell discussed issues related to Mr Davey and the fact that he was still ringing Ms Gobbo.⁴³⁴¹ Mr O'Connell said that it was difficult to speak to Mr Davey, as he was not aware of Ms Gobbo's status as a human source.⁴³⁴² Mr O'Connell said that he would ring Mr Davey, and tell him that Mr Ryan was dealing with it. Mr Fox 'assured' Mr O'Connell that Ms Gobbo was looking for the phone numbers as requested.⁴³⁴³
3187. On 21 March 2008, Mr O'Connell told Mr Fox he had spoken to Mr Davey, who disputed the version of events given by Ms Gobbo.⁴³⁴⁴ Mr Davey said that he was going on holidays, and that he had no intention of ringing Ms Gobbo. He said it was Ms Gobbo, and not him, who had said she would ring by 4:00pm. He told Mr O'Connell, he was only ringing her to 'see how she went', as she had volunteered to do it. Mr Davey said that she had

⁴³³⁴ Exhibit RC0507 Mr Fox diary, 19 March 2008, 9, VPL.2000.0001.3534 @.3542

⁴³³⁵ Exhibit RC0507 Mr Fox diary, 19 March 2008, 9, VPL.2000.0001.3534 @.3542

⁴³³⁶ Exhibit RC0507 Mr Fox diary, 19 March 2008, 9, VPL.2000.0001.3534 @.3542; Exhibit RC0281, ICR2958 (010), 19 March 2008, 107, VPL.2000.0003.0847

⁴³³⁷ Exhibit RC0507 Mr Fox diary, 19 March 2008, 9, VPL.2000.0001.3534 @.3542; Exhibit RC0281, ICR2958 (010), 19 March 2008, 107, VPL.2000.0003.0847

⁴³³⁸ Exhibit RC0507 Mr Fox diary, 19 March 2008, 9, VPL.2000.0001.3534 @.3542; Exhibit RC0281, ICR2958 (010), 19 March 2008, 107, VPL.2000.0003.0847

⁴³³⁹ Exhibit RC0507 Mr Fox diary, 19 March 2008, 10, VPL.2000.0001.3534 @.3543

⁴³⁴⁰ Exhibit RC0507 Mr Fox diary, 19 March 2008, 10, VPL.2000.0001.3534 @.3543; Exhibit RC0281, ICR2958 (010), 19 March 2008, 107, VPL.2000.0003.0847

⁴³⁴¹ Exhibit RC0507 Mr Fox diary, 20 March 2008, 15, VPL.2000.0001.3534 @.3548

⁴³⁴² Exhibit RC0507 Mr Fox diary, 20 March 2008, 15, VPL.2000.0001.3534 @.3548

⁴³⁴³ Exhibit RC0507 Mr Fox diary, 20 March 2008, 15, VPL.2000.0001.3534 @.3548

⁴³⁴⁴ Exhibit RC0507 Mr Fox diary, 26 March 2008, 19, VPL.2000.0001.3534 @.3552

been under no pressure at all. Mr O'Connell also confirmed that Mr Davey was not aware of Ms Gobbo's status as a human source. He said that Mr Davey had been told that Ms Gobbo was talking to Mr Ryan owing to her history with Purana and the threats that had been made to her.⁴³⁴⁵

O'Connell Reads Dale Notes

3188. On 26 March 2008, Mr Fox arranged with Mr O'Connell to meet to read the Paul Dale document, and to obtain the mobile numbers of Petra targets which had been provided to him by Ms Gobbo. He updated the controller (Mr Preston) regarding this meeting.
3189. Mr Fox subsequently met with Mr O'Connell at 1:30pm to provide the phone numbers for Ms Abbey Haynes, Mr Azzam Ahmed, Mr Tony Mokbel and Mr Dale. Mr O'Connell also read the document handwritten by Mr Dale in gaol provided to the SDU. They discussed investigative avenues for Petra.⁴³⁴⁶
3190. Ms Gobbo conceded that it had been inappropriate of her to hand over the notes as they had been provided to her in the belief that either she was acting as his lawyer, or going to hand them over to his lawyer.⁴³⁴⁷
3191. In evidence to the Commission, Mr O'Connell was not prepared to concede that these notes would have been privileged in nature. He conceded that as a 'general assertion' the fact that, if a lawyer conducting a professional visit obtained notes from the person they were visiting, there would be a concern they were privileged. However, he did not concede that that was the manner in which she came into possession of those notes.⁴³⁴⁸ Later, on 7 January 2009, in the hours before Ms Gobbo was to sign a witness statement for the Petra Taskforce, Ms Gobbo had a conversation with Mr O'Connell about her historical relationship with Victoria Police. During the conversation Ms Gobbo referred to these notes as being privileged.⁴³⁴⁹
3192. In the supplementary statement provided by Mr Ryan, he in effect denied knowledge of Mr Dale's notes.⁴³⁵⁰ It is submitted that the contemporaneous evidence indicates otherwise.
3193. Mr Ashton did not recall being aware that investigators had a copy of the notes Ms Gobbo had obtained from Mr Dale, nor having discussions about them.⁴³⁵¹ Mr Ashton agreed that it would be a matter of concern if Mr Dale had passed on information to Ms Gobbo, in her capacity as his legal advisor, and she then passed those notes on to investigators.⁴³⁵² He accepted that the fact that Ms Gobbo was a human source should have been disclosed to

⁴³⁴⁵ Exhibit RC0507 Mr Fox diary, 26 March 2008, 19, VPL.2000.0001.3534 @.3552

⁴³⁴⁶ Exhibit RC0507 Mr Fox diary, 26 March 2008, 28, VPL.2000.0001.3534 @.3561

⁴³⁴⁷ Transcript of Ms Nicola Gobbo, 5 February 2020, 13142, TRN.2020.02.05.01.P

⁴³⁴⁸ Transcript of Mr Shane O'Connell, 21 February 2020, 14765, TRN.2020.02.21.01.P

⁴³⁴⁹ Exhibit RC1348 Transcript of conversation between Shane O'Connell and Nicola Gobbo, 7 January 2005, VPL.0100.0237.0438; Exhibit RC1348 Transcript of conversation between Shane O'Connell and Ms Nicola Gobbo, 7 January 2005, 319, VPL.0100.0001.3179 @.3497

⁴³⁵⁰ Exhibit RC1528 Statement of Mr Gavan Ryan, 5 May 2020, 4-5 [12]-[17], VPL.0014.0039.0025 @.0028-.0029.

⁴³⁵¹ Transcript of Mr Graham Ashton, 10 December 2019, 10798, TRN.2019.12.10.01.P

⁴³⁵² Transcript of Mr Graham Ashton, 10 December 2019, 10799, TRN.2019.12.10.01.P

Mr Dale due to the fact that the evidence suggested that she had been acting for him in a legal capacity, or quasi-legal capacity.⁴³⁵³

3194. It is submitted that the decision to seek out these notes should have been internally scrutinised, as they were from an individual whose occupation usually imposes obligations of confidence and they were possibly protected privileged communications. It appears that either a simplistic interpretation of the lawyer-client relationship was again taken in this case, or when one considers the tasking of Ms Gobbo to Mr Andrew Hodson in a professional capacity for Petra, there was little regard for that principle.

March 2008 – Orman, Gatto and Kaya

3195. The conduct of Ms Gobbo and the police in respect of Mr Orman are dealt with in more detail in the chapter of conflict cases at Chapter 16 and in the case review of Mr Orman in Volume 3.
3196. In March 2008, the committal of Mr Orman for the murder of Victor Peirce took place. Mr Thomas was the primary witness in the case against him. With the knowledge of the SDU, and of investigators including Mr Buick, Ms Gobbo had been acting for Mr Thomas and Mr Orman at the same time.
3197. She had also been involved in urging police to ensure that Mr Thomas would give evidence when he had indicated some reluctance to her. In the lead up to the committal, and during it she had also ensured that the police told Mr Thomas to answer any questions as to legal advice he received in a particular way in order to avoid her involvement in his case becoming known.
3198. Ms Gobbo had also represented Mr Gatto at a coercive hearing in late 2007 whilst continuing to provide the police with information about him. During the committal surveillance was conducted on a meeting between Mr Gatto and Ms Gobbo in which an issue arose as to the potential compromise of Ms Gobbo. This matter is also dealt with in Chapter 16.
3199. In March 2008, Ms Gobbo also came to represent Mr Kaya, an associate of Messrs Gatto and Orman. Ms Gobbo had also been providing information to police about Mr Kaya. Again, this matter is dealt with in Chapter 16.

17 March 2008 – Briars Taskforce Need PII Strategy for [REDACTED]

3200. On 17 March 2008, a Briars Taskforce meeting took place.⁴³⁵⁴ The written update by Mr Wilson noted:

[REDACTED]
[REDACTED]
[REDACTED]. *We need to think through a strategy to deal with PII issues.*

⁴³⁵³ Transcript of Mr Graham Ashton, 10 December 2019, 10791, TRN.2019.12.10.01.P

⁴³⁵⁴ Exhibit R0997 Briars Taskforce Update, 17 March 2008, with handwritten notes of Assistant Commissioner Luke Cornelius, 412-415, VPL.0100.0058.0798 @.1209-.1212

3201. Mr Cornelius drew an arrow from this and wrote:

Rely on OPI protections.

March - April 2008 – Rumours Abound that Gobbo is a ‘Dog’ for Purana

3202. On 20 March 2008, Ms Gobbo went to lunch with Mr Gatto and a number of his acquaintances including Messrs Mathew Tomas, Brian Armatruda and Mick DiPietro. Ms Gobbo was told of rumours circulating, apparently coming from Carl Williams and Milad Mokbel, that she was a registered ‘dog’ and was working for Purana.

3203. Ms Gobbo reported Mr Tomas as saying that he didn’t even mix in those circles and he was still hearing those rumours; it was widespread. Mr Armatruda indicated he too had been hearing those rumours.⁴³⁵⁵ Ms Gobbo said she had long chats to Mr Gatto and others on the table denying the allegations, and they seem to have accepted what she said.⁴³⁵⁶

3204. On 2 April 2008, Ms Gobbo reported having spoken with Mr Ahmed, who was sharing a cell with Mr Kabalan Mokbel, and who had told him that Ms Gobbo was a ‘dog’ working for the Purana Taskforce. Mr Ahmed said that Kabalan Mokbel was blaming Ms Gobbo for a statement from [REDACTED]

[REDACTED]
[REDACTED].⁴³⁵⁷

3205. When Mr Sandy White was told about this, he noted that since January 2008, Tony Bayeh had claimed to have documentary evidence that Ms Gobbo was a source. It is apparent that the [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]. Ms Gobbo was now distancing herself from having provided such advice.⁴³⁵⁸

3206. Ms Gobbo told Mr Ahmed that he should relay to Kabalan Mokbel that she had given free advice to [REDACTED] at the request of Kabalan Mokbel, it was not her fault [REDACTED], she had not dealt with [REDACTED] before or since.⁴³⁵⁹

3207. On 12 April 2008, Ms Gobbo reported to her handler a telephone call she had received from solicitor, Alistair Grigor. Mr Grigor had received a telephone call from Tony Mokbel asking whether the rumours of Ms Gobbo being a ‘dog’ were true. Mr Grigor described Tony Mokbel as furious and beside himself with anger.⁴³⁶⁰ Ms Gobbo also reported having received a

⁴³⁵⁵ Exhibit RC0281 ICR2958 (010), 20 March 2008, 110-111, VPL.2000.0003.0850-.0851; Exhibit RC0284 SML2958, 26 March 2008, 20-21 VPL.2000.0001.9236 @.9255-.9256

⁴³⁵⁶ Exhibit RC0281 ICR2958 (010), 20 March 2008, 112 VPL.2000.0003.0852

⁴³⁵⁷ Exhibit RC0281 ICR2958 (012), 2 April 2008, 126 VPL.2000.0003.0866

⁴³⁵⁸ Exhibit RC0284 SML2958, 7 April 2008, 22 VPL.2000.0001.9257

⁴³⁵⁹ Exhibit RC0281 ICR2958 (012), 2 April 2008, 126 VPL.2000.0003.0866

⁴³⁶⁰ Exhibit RC0281 ICR2958 (013), 12 April 2008, 153 VPL.2000.0003.0893; Exhibit RC0284 SML2958, 14 April 2008, 23, VPL.2000.0001.9236 @.9258

call that day from Mr Jack Doumani telling her that Horty and Milad Mokbel were calling her a dog.⁴³⁶¹

16 April 2008 – Gobbo’s Car Set on Fire

3208. In April 2008, there was a serious escalation in the threats being made to Ms Gobbo. On 16 April 2008, Ms Gobbo was out to dinner with Mr Grigor and Mr Jacques El-Hage at South Melbourne restaurant, Centro, when her car, parked not far away, was set on fire.
3209. On 16 April 2008, at about 9:30pm, whilst Ms Gobbo, and Messrs Grigor and El-Hage were having dinner, they saw a fire truck speed past them. A short time later Ms Gobbo received a call from the police notifying her that her car was on fire.
3210. Mr Flynn was the first person she called. He notified Ms Gobbo’s handler. Mr Flynn also notified the new Detective Inspector of Purana, Bernie Edwards, who attended the scene. Mr Kelly was also called out as well.⁴³⁶²
3211. Ms Gobbo spoke with Mr Fox later that night about the circumstances of the fire. They spoke again the following morning. Ms Gobbo said that Mr Kelly had told her that the Purana Taskforce may require a statement from her. There was discussion about this, and it was decided that a statement should simply acknowledge her ownership of the vehicle and she should not nominate suspects. Mr Fox indicated he would speak with Mr Kelly and the Purana Taskforce before this occurred. Ms Gobbo later made a statement, witnessed by Mr Rowe, on 22 April 2008.⁴³⁶³ This was a bland statement, which indicated nothing of the threats to Ms Gobbo.
3212. On 17 April 2008, Mr Sandy White met with Mr Fox and went over recent events related to Ms Gobbo, including the various reports of her being a registered human source.⁴³⁶⁴ They discussed an exit strategy for Ms Gobbo’s relationship with the Mokbels, with the arson presenting the ideal opportunity for Ms Gobbo to end their relationship. She should tell them that after all the work she has done for them, this was how they treated her.⁴³⁶⁵ This was later conveyed to Ms Gobbo who agreed.⁴³⁶⁶
3213. Later that day, Mr Sandy White prepared a monthly source review. This noted matters including:
- the recent events which appeared to be an escalation of the threats to her
 - the exit strategy with the Mokbels having been discussed with Ms Gobbo
 - that by virtue of her maintaining strong relationships with persons of interest such as Messrs Karam and Gatto, Ms Gobbo was still able to

⁴³⁶¹ Exhibit RC0281 ICR2958 (013), 12 April 2008, 154, VPL.2000.0003.0894



⁴³⁶⁴ Exhibit RC0305 Mr Sandy White diary, 17 April 2008, 170-171, RCMP1.0092.0001.0001 @.0170 - .0171

⁴³⁶⁵ Exhibit RC0284 SML2958, 17 April 2008, 23-27, VPL.2000.0001.9236 @.9258-.9262

⁴³⁶⁶ Exhibit RC0281 ICR2958 (014), 17 April 2008, 177, VPL.2000.0003.0917

access valuable intelligence which she continued to provide whether wanted or not

- Ms Gobbo's awareness that such information would only be passed on if it did not jeopardise her safety
- the relationship should continue to monitor the possibility of Ms Gobbo's exposure in the upcoming trials of Messrs Horthy Mokbel, Bayeh and Orman.⁴³⁶⁷

3214. That afternoon, Ms Gobbo got a call from Tony Mokbel who reported having heard about her car. He was very sympathetic, and Ms Gobbo was not sure if it was an indirect threat or he was being genuine. She failed to initiate the exit strategy saying she was caught off guard.⁴³⁶⁸

3215. On 18 April 2008, Mr Sandy White received a call from Mr Glow, and it was agreed an audit scheduled for the following week would be postponed. He also received a call from Mr Biggin who instructed that there should be an update to Ms Gobbo's risk assessment. Later that day Mr Sandy White updated Mr Biggin about the issues related to Ms Gobbo.⁴³⁶⁹

3216. On 19 April 2008, after reporting an offer of a loan car by Mr Gatto, Ms Gobbo reported having received a black Mercedes from Tom Karas, an associate of Mr Gatto.⁴³⁷⁰

Reaction by Command to Gobbo Car Fire

3217. Ms Nixon remembered this event vaguely. She had no recollection of having received any briefing from Messrs Overland or Moloney about it, or of knowing anything of the earlier threats to Ms Gobbo.⁴³⁷¹

3218. Mr Overland told the Commission that as Deputy Commissioner he was aware of the various threats made against Ms Gobbo including the car fire in April 2008. He agreed he knew it to be an indication that people were sending her a message or wanting to harm her. While he was concerned about the risks to Ms Gobbo's safety, he did not direct Purana or SDU officers to take any further steps to manage these safety risks, for example by deregistering her as a source and 'ending the relationship' or by enhancing the security arrangements that were in place at the time. He did not think he spoke with Mr Moloney about the matter.⁴³⁷²

3219. Mr Moloney gave evidence that he was briefed by Mr Biggin, who would have told him there was to be a review of the risk. Mr Moloney could not recall ever having been briefed on Operation Gosford. It seems Mr Moloney assumed that Mr Overland would have been aware of the matter although he did not speak with him about it.⁴³⁷³

⁴³⁶⁷ Exhibit RC0284 SML2958, 17 April 2008, 23-27, VPL.2000.0001.9236 @9258-.9262

⁴³⁶⁸ Exhibit RC0284 SML2958, 17 April 2008, 27 VPL.2000.0001.9236 @.9262

⁴³⁶⁹ Exhibit RC0305 Mr Sandy White diary, 18 April 2008, 172, RCMPI.0092.0001.0001 @.0172

⁴³⁷⁰ Exhibit RC0281 ICR2958 (014), 17, 19 April 2008, 178 & 188 VPL.2000.0003.0918, .0928; Exhibit RC0284 SML2958 19 April 2008, 27 VPL.2000.0001.9236 @.9262

⁴³⁷¹ Transcript of Ms Christine Nixon, 18 December 2019, 11649 – 11650, RC_MPI_18DEC19_provisional

⁴³⁷² Transcript of Mr Simon Overland, 16 December 2019, 11796 – 11800, RC_MPI_16Dec19_provisional

⁴³⁷³ Transcript of Mr Dannye Moloney, 20 February 2020, 14591 – 14594, TRN.2020.02.20.01.P

3220. Mr Overland knew that if Ms Gobbo had been physically harmed or killed, there was the potential for significant organisational issues within Victoria Police. If, after the Hodson murders, another human source was killed, especially one who was a criminal defence barrister, it is submitted that it would have been disastrous for Victoria Police. Mr Moloney would have known likewise.⁴³⁷⁴
3221. On top of his awareness of Ms Gobbo's use in Operation Posse, and the threats and the car fire, at this time Mr Overland was also aware of Ms Gobbo providing information about Mr Gatto following Mr Orman's arrest and that she was now associating with another target of Purana. Mr Overland did nothing to ensure that the risks associated with Ms Gobbo's use were being adequately addressed.⁴³⁷⁵
3222. When it was suggested to Mr Overland that given the circumstances he ought to have briefed Chief Commissioner Nixon about the matter, he responded that he did not do that 'because it was an operational matter, and these are matters best dealt with at my level and levels below'. He said it was a judgement call which he stood by.
3223. It is submitted that the car fire was clearly more than an operational matter, and Mr Overland would have well-understood this. It was put to Mr Overland that the reason he did not discuss the matter Ms Nixon was owing to a concern that Ms Nixon would question the use of Ms Gobbo as a human source. Mr Overland denied this, indicating there would no point in telling the Chief Commissioner about a potential problem.⁴³⁷⁶
3224. It is submitted that in telling Ms Nixon about the risk to Ms Gobbo's safety, she would very likely have become aware of the police use of Ms Gobbo as a human source. Unlike Mr Blayney, Ms Nixon would have been able to insist on legal advice about the propriety of that use and the consequences of it.

3225. On the evidence, it is open to the Commissioner to find that Mr Overland's and Mr Moloney's reaction to Ms Gobbo's car being set alight, in circumstances where they both knew her to be a human source providing police with information about organised crime figures, was inadequate.

21-29 April 2008 – Redacting of Statement

Background

3226. Operation Quart commenced in September 2005 and involved an investigation into the alleged trafficking of heroin by Mr Tan Hai Nguyen and

⁴³⁷⁴ Transcript of Mr Simon Overland, 16 December 2019, 11796 – 11798, RC_MPI_16Dec19_provisional

⁴³⁷⁵ Transcript of Mr Simon Overland, 16 December 2019, 11798 – 11800, RC_MPI_16Dec19_provisional

⁴³⁷⁶ Transcript of Mr Simon Overland, 16 December 2019, 11796 – 11798, RC_MPI_16Dec19_provisional

HS currently representing asian drug trafficker who has since his court case, made a statement against a co-offender, on the advice of the court and HS. Statement says he made statement on advice of his barrister, NG. HS concerned if statement is served on deft, it could be seen by the Brunswick crew who would have more evidence of HS helping police. Agreed; Butterworth from Purana to make contact with inf., advice of threat against HS and recent firebombing and request that deft. Copy of statement be redacted, obscuring reference to HS legal advice that deft. assist by making statement.⁴³⁸⁶

3232. Later that day, Mr Fox's diary records apparent further discussions (seemingly with Ms Gobbo) concerning the issue as follows:

- *Talk re blocking out first paragraph/sentence in the Asian statement.*
- *Blacking out could highlight it.*
- *Risk Vs highlight in court arena as opposed to in jail if this statement circulates.*
- *She has no problem with only blacking out the one sentence.*
- *This is not unusual as she gets statements like that all the time.*
- *HS told it will be said to police member relates to threats being investigated by Purana – A/C.⁴³⁸⁷*

3233. The 21 April 2008 ICR entry (which appears to have been backfilled after subsequent discussions) records the action taken by Mr Fox as follows:

Verbally disseminated above information to Mark Butterworth and Paul Rowe at Purana. Statement subsequently blacked out before served on defence. To be monitored if court transcripts are ever called for.⁴³⁸⁸

3234. On 23 April 2008, Mr Fox appears to have had further contact with Ms Gobbo which is not directly recorded in any ICR. According to his diary entry, Ms Gobbo told him that the statement may have already been served on Mr Nguyen. The entry records that Purana had been notified of the issue of the blacking out of the sentence and would check whether it had been served.⁴³⁸⁹

3235. During a meeting with her handlers Mr Fox and Mr Sandy White on 24 April 2008, Ms Gobbo provided her handlers with a copy of the statement of [REDACTED] [REDACTED].⁴³⁹⁰ According to the relevant ICR, Mr Fox told Ms Gobbo that the paragraph in the statement referring to her advice would be 'blacked out' before being served on the legal representatives for Mr Nguyen.⁴³⁹¹

⁴³⁸⁶ Exhibit RC0305 Sandy White diary, 22 April 2008, 176, RCMP1.0091.0001.0001 @.1384.

⁴³⁸⁷ Exhibit RC0507 Mr Fox diary, 22 April 2008 at 1748, 57, VPL.2000.0001.3609 @.3665.

⁴³⁸⁸ Exhibit RC0281 ICR2958 (015), 21 April 2008, 198, VPL.2000.0003.0938; Exhibit RC0507 Mr Fox diary, 21 April 2008, 47 – 48, VPL.2000.0001.3609 @.3655-56.

⁴³⁸⁹ Exhibit RC0507 Mr Fox diary, 23 April 2008, 64, VPL.2000.0001.3609 @.3672.

⁴³⁹⁰ Exhibit RC0281 ICR2958 (016), 24 April 2008, 223, VPL.2000.0003.0949 @.0963; Exhibit RC0507 Mr Fox diary, 24 April 2008, 69, VPL.2000.0001.3609 @.3677.

⁴³⁹¹ Exhibit RC0281, ICR2958 (016), 24 April 2008, 223, VPL.2000.0003.0949 @.0963.

Statement Gets Redacted

3236. On 28 April 2008, a diary entry of Mr Rowe records that he spoke to the informant, Senior Constable Jenny Booth about the statement of [REDACTED] and 'explained threats to Nicola Gobbo & desire to sanitise.'⁴³⁹² The diary entry also records that Rowe then spoke to a solicitor (Andrew) from the OPP and advised that the statement would be sanitised and would 'notify inv if any request made by defence.'⁴³⁹³
3237. On 29 April 2008, Mr Rowe's diary records that he spoke to Mr Jim Valos (the solicitor for [REDACTED]), who said he had shredded the unsanitised copy of the statement ['and was happy as did not want his name to appear on same'].⁴³⁹⁴
3238. Whilst it is not entirely clear as to when the statement of [REDACTED] was served on Mr Nguyen, it is inferred from the material outlined above that ultimately a redacted version of the statement was provided to Mr Nguyen sometime after 28 April 2008.
3239. [REDACTED] subsequently gave evidence at the contested plea hearing of Mr Tan Hai Nguyen in the County Court.⁴³⁹⁵

April - July 2008 – The El-Hage Trifecta

Gobbo Involvement with El-Hage

3240. Mr El-Hage was one of the people against whom Ms Gobbo had been informing and whom Mr Cooper had implicated when he made statements to police. When, on 30 October 2006, Ms Gobbo had reviewed the Posse briefs of evidence against Messrs Milad Mokbel, [REDACTED] and Agrum, which were reliant on evidence of Mr Cooper, she had commented on the various people yet to be charged, including Harty Mokbel and Mr El-Hage. She had again indicated to Messrs Sandy White and Peter Smith in January 2008 that there had been enough evidence contained in the old hand up brief upon which to charge Mr El-Hage, questioning why the police did not charge him.⁴³⁹⁶
3241. It was alleged that Mr El-Hage had been involved in trafficking a commercial quantity of methylamphetamine at Rye between September 2002 and March 2003, the investigation of which was known as Operation Matchless. Mr El-Hage was said to have arranged for the supply of necessary chemicals to the manufacturers and then the delivery of the finished product. Mr El-Hage had been arrested in April 2003 following the execution of a search warrant

⁴³⁹² Exhibit RC1381 Detective Sergeant Paul Rowe diary, 28 April 2008, RCMP1.0080.0001.0001 @.0325.

⁴³⁹³ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 28 April 2008, RCMP1.0080.0001.0001 @.0326.

⁴³⁹⁴ Exhibit RC1381 Detective Sergeant Paul Rowe diary, 29 April 2008, RCMP1.0080.0001.0001 @.0328.

⁴³⁹⁵ Exhibit RC1872 Summary of Prosecution Opening, *R v Tan Hai Nguyen*, 2[5] – [6], OPP.0050.00001.0007 @.0020; Exhibit RC1864 Reasons for Sentence, *R v Tan Hai Nguyen* [2009] VCC, 2 [4], 3 [7], 8 [27], OPP.0050.00001.0007 @.0036-37, .0042; Exhibit RC1832 Appeal, Summary of Proceedings, *R v Tan Hai Nguyen*, 25 May 2010, 6[12], 8[18], OPP.0050.00001.0007 @.0070, .0072.

⁴³⁹⁶ Exhibit RC0282 Transcript of conversation between Sandy White, Peter Smith and Nicola Gobbo, 30 January 2008, 161-162, VPL.0005.0115.0958 @.1118-9; see also Exhibit RC0281 ICR2958 (001), 30 January 2008, 17, VPL.2000.0003.0757

at his home, but was not charged at the time.⁴³⁹⁷ Ms Gobbo had attended upon him in custody to advise him upon his arrest.⁴³⁹⁸ When he was eventually charged in mid-2008, the case against him relied centrally upon the evidence of Mr Cooper, [REDACTED], and Mr Thomas.⁴³⁹⁹ Ms Gobbo had reviewed statements of both Mr Cooper and Mr Thomas by that time.

3242. Ms Gobbo had provided police with information about Mr El-Hage almost from the outset of her becoming a registered human source. This included information about:

- his relationships and interactions with criminal associates including members of the Mokbel family, especially Horty Mokbel,⁴⁴⁰⁰ Messrs Cooper⁴⁴⁰¹ and Cvetanovski,⁴⁴⁰² as well as others⁴⁴⁰³
- Mr El-Hage engaging in drug trafficking activities,⁴⁴⁰⁴ some of which was passed on to investigators of Victoria Police⁴⁴⁰⁵
- his telephone number⁴⁴⁰⁶

⁴³⁹⁷ See Reasons for Sentence, *R v El-Hage* [2011] VSC 452, [4]-[7], OPP.0043.0006.0006 @.0125. [publicly available]

⁴³⁹⁸ Anonymous submission 037, 4,

⁴³⁹⁹ Exhibit RC1854 Presentment No. C0806384.2, *R v Jacques El-Hage*, 2011, 1-4, OPP.0043.0006.0006 @.0007-.0010; Exhibit RC1844 Office of Public Prosecutions Victoria, Annexure A - Witnesses and Related Accused Matter Outcomes, 29 May 2020, OPP.0056.0001.0001. See also Inspector Dale Flynn describing Mr Cooper as "instrumental" in the case at Transcript of Inspector Dale Flynn, 30 September 2019, 6668-9. See also Inspector Dale Flynn describing Messrs Cooper and Thomas as "key witnesses" at Transcript of Inspector Dale Flynn, 2 October 2019, 7239.

⁴⁴⁰⁰ See, eg; Exhibit RC0281 ICR3838 (003), 26 September 2005, 16, VPL.2000.0003.1599; Exhibit RC0281 ICR3838 (016), 18 January 2006, 125, VPL.2000.0003.1711; Exhibit RC0281 ICR3838 (016), 19 January 2006, 127, VPL.2000.0003.1713; Exhibit RC0281 ICR3838 (024), 29 March 2006, 216, VPL.2000.0003.1802; Exhibit RC0281 ICR3838 (031), 9 May 2006, 292, VPL.2000.0003.1878; Exhibit RC0281 ICR3838 (019), 22 February 2006, 162, VPL.2000.0003.1748; Exhibit RC0281 ICR3838 (035), 17 June 2006, 333, VPL.2000.0003.1919; Exhibit RC0281 ICR3838 (036), 22 June 2006, 340, VPL.2000.0003.1926; Exhibit RC0281 ICR3838 (057), 12 December 2006, 583 VPL.2000.0003.2169; Exhibit RC0281 ICR3838 (064), 29 January 2006, 619, VPL.2000.0003.2205; Exhibit RC0281 ICR3838 (070), 14 March 2007, 705, VPL.2000.0003.2291; Exhibit RC0281 ICR3838 (115), 10 December 2007, 1519, VPL.2000.0003.3105; Exhibit RC0281 ICR2958 (010), 19 March 2008, 109, VPL.2000.0003.0849

⁴⁴⁰¹ See, eg; Exhibit RC0281 ICR3838 (003), 26 September 2005, 16, VPL.2000.0003.1599

⁴⁴⁰² See, eg; Exhibit RC0281 ICR3838 (018), 13 February 2006, 151 VPL.2000.0003.1737

⁴⁴⁰³ See, eg; Exhibit RC0281 ICR3838 (040), 4 August 2006, 381-2 VPL.2000.0003.1967-.1968; Exhibit RC0281 ICR3838 (54), 28 November 2006, 567, VPL.2000.0003.2153; Exhibit RC0281 ICR3838 (057), 12 December 2006, 583, VPL.2000.0003.2169; Exhibit RC0281 ICR3838 (085), 26 June 2007, 941, VPL.2000.0003.2527; Exhibit RC0281 ICR3838 (088), 4 July 2007, 985-6 VPL.2000.0003.2571-.2572; Exhibit RC0281 ICR3838 (094), 14 August 2007, 1086, VPL.2000.0003.2672; Exhibit RC0281 ICR2958 (010), 19 March 2008, 109, VPL.2000.0003.0849

⁴⁴⁰⁴ See, eg; Exhibit RC0281 ICR3838 (019), 22 February 2006, 162, VPL.2000.0003.1748 "Horty and Jaques El Hajj out trafficking tonight"; Exhibit RC0281 ICR3838 (040), 3 August 2006, 381, VPL.2000.0003.1967 "Seeing Jacques EL HAGE at Waterfront w. his cocaine business guys (DDI O'BRIEN adv. immediately re above re SCSU on EL HAGE) (Controller SANDY WHITE adv)"; Exhibit RC0281 ICR3838 (065), 9 February 2007, 630, VPL.2000.0003.2216; Exhibit RC0281 ICR3838 (070), 13 March 2007, 692, VPL.2000.0003.2278; Exhibit RC0281 ICR3838 (076), 24 April 2007, 808, VPL.2000.0003.2394; Exhibit RC0281 ICR3838 (078), 9 May 2007, 831, VPL.2000.0003.2417; Exhibit RC0281 ICR3838 (085), 26 June 2007, 941, VPL.2000.0003.2527; Exhibit RC0281 ICR3838 (088), 4 July 2007, 985-6, VPL.2000.0003.2571-2; Exhibit RC0281 ICR3838 (094), 14 August 2007, 1086, VPL.2000.0003.2672

⁴⁴⁰⁵ Transcript of Inspector Dale Flynn, 2 October 2019, 7092-7093 RC_MPI_02Oct19_provisional. It appears, however, that Victoria Police's interest in Mr El-Hage were mostly in relation to the Operation Matchless offending.

⁴⁴⁰⁶ See, eg; Exhibit RC0281 ICR3838 (040), 1 August 2006, 378, VPL.2000.0003.1964; Exhibit RC0281 ICR3838 (040), 4 August 2006, 381, VPL.2000.0003.1967

- his personal life.⁴⁴⁰⁷

3243. Ms Gobbo also maintained a relatively close social relationship, frequently having dinner, with Mr El-Hage. Whilst those dinners were generally of a social nature, it is clear that on occasion there was also a professional element to the meetings. For example, on 14 March 2007, Mr El-Hage had expressed concern that he would be arrested and charged in relation to the 'Rye lab' and wanted to discuss his options.⁴⁴⁰⁸

El-Hage a Suspect for the Arson

3244. On the night of the fire in her car, 16 April 2008, Ms Gobbo spoke with Mr Fox. They discussed who might have known where she was, and that Mr El-Hage said that he had not told anyone about the meeting. He was clearly a suspect in the arson.⁴⁴⁰⁹

3245. On 21 April 2008, Ms Gobbo spoke with Mr Fox about catching up with Mr El-Hage to see if he had heard anything. She was advised to leave it until after the Purana Taskforce had spoken to him.⁴⁴¹⁰

3246. On 24 April 2008, Ms Gobbo spoke with Mr Fox again about the car fire. They discussed that it had likely been sanctioned by Mr Horty Mokbel, and that Mr Bayeh was behind it, and that it was likely Mr El-Hage was also involved.⁴⁴¹¹

3247. The following day, Ms Gobbo was given the go ahead to meet Mr El-Hage.⁴⁴¹²

3248. On 29 April 2008, Ms Gobbo reported having spoken with Mr El-Hage, who had told her he was to be interviewed by the police the following day and wanted to know what he could say. Ms Gobbo said she had advised that he tell the truth, however if he was asked questions about matters related to his court case he could tell them that was privileged and he would not have to divulge those matters.⁴⁴¹³

3249. This would indicate that Ms Gobbo had been providing legal advice to Mr El-Hage on the night of the car fire.

3250. On 30 April 2008, Ms Gobbo was to have dinner with Mr El-Hage. She spoke about the dinner strategy with Mr Fox prior to her attendance; that she would get feedback on his interview with the Purana Taskforce, and she would let him know of her displeasure with the way the Mokbels had treated her. The latter was supposed to be part of the strategy to enable Ms Gobbo to withdraw from her involvement with the Mokbels and their associates.⁴⁴¹⁴

3251. Later, Ms Gobbo reported on her meeting with Mr El-Hage, who had recounted to her his interview with Mr Rowe that day. Ms Gobbo then

⁴⁴⁰⁷ Exhibit RC0281 ICR3838 (040), 4 August 2006, 381, VPL.2000.0003.1967-8

⁴⁴⁰⁸ Exhibit RC0281 ICR3838 (070), 14 March 2007, 705 VPL.2000.0003.2291

⁴⁴⁰⁹ Exhibit RC0281 ICR2958 (014), 16 April 2008, 173, VPL.2000.0003.0913

⁴⁴¹⁰ Exhibit RC0281 ICR 2958 (015), 21 April 2008, 197, VPL.2000.0003.0937

⁴⁴¹¹ Exhibit RC0281 ICR2958 (016), 24 April 2008, 217, VPL.2000.0003.0957

⁴⁴¹² Exhibit RC0281 ICR2598 (016), 25 April 2008, 225, VPL.2000.0003.0965

⁴⁴¹³ Exhibit RC0281 ICR2958 (017), 29 April 2008, 241, VPL.2000.0003.0981

⁴⁴¹⁴ Exhibit RC0281 ICR2958 (017)), 30 April 2008, 243, VPL.2000.0003.0983

recounted what Mr El-Hage said to her handler, who then relayed the information to Mr Rowe.⁴⁴¹⁵

3252. Thereafter Ms Gobbo continued to provide information about him of the nature referred to above in paragraph 3242,⁴⁴¹⁶ as well as information relevant to the police investigation of the arson.⁴⁴¹⁷

El-Hage Charged

3253. On 19 June 2008, Mr Peter Smith was advised by Mr Flynn that Messrs Tony Mokbel, Milad Mokbel, Ibrahim Kurnaz and El-Hage were all soon to be charged in relation to the Operation Matchless investigation, and that Ms Gobbo could be told about this.⁴⁴¹⁸ It is clear from the subsequent conversation between Mr Peter Smith and Ms Gobbo, that Mr Flynn also spoke about seeking some assistance from Ms Gobbo.
3254. Later the same night, Mr Peter Smith told Ms Gobbo about the planned arrests. Ms Gobbo was asked to provide information in relation to Mr El-Hage. Ms Gobbo reported that she believed his wife had left him, and that he had two disabled children who went to a special school on the other side of town. She was unable to provide any such information in relation to Mr Kurnaz.⁴⁴¹⁹ Mr Peter Smith passed this information back to Mr Flynn the following morning.⁴⁴²⁰
3255. On 3 July 2008, Mr Flynn advised that he had still not served briefs of evidence upon Messrs Kurnaz or El-Hage, and that a committal was taking place involving Milad Mokbel the following week which would involve Mr Cooper giving evidence.⁴⁴²¹
3256. On 21 July 2008, Mr Flynn arrested and charged Mr Kurnaz. Mr Wolf, Ms Gobbo's handler, rang and advised her of the arrest. Ms Gobbo then made arrangements to see Mr El-Hage. Ms Gobbo told Mr Wolf that she had spent two hours with Mr El-Hage and had told him that she had previously represented Mr Cooper, and as such she could not provide 'further and ongoing' representation due to a conflict of interest.
3257. Mr Kurnaz made a successful bail application that afternoon, at which it was necessary for Mr Flynn to give evidence, and for Mr Kurnaz to demonstrate that exceptional circumstances existed, due to the serious nature of the charge.
3258. Later that day Ms Gobbo was told that Mr Kurnaz had been bailed. She wanted details, as this would assist her with Mr El-Hage's case. She said she would ring Mr Flynn to work out bail arrangements for Mr El-Hage. She

⁴⁴¹⁵ Exhibit RC0281 ICR2958 (017), 30 April 2008, 246-7, VPL.2000.0003.0986-.0987

⁴⁴¹⁶ See for example, Exhibit RC0281 ICR2958 (017), 1 May 2008, 250, VPL.2000.0003.0986-.0987; Exhibit RC0281 ICR2958 (020), 19 May 2008, 319, 324, VPL.2000.0003.1059, .1064

⁴⁴¹⁷ See for example Exhibit RC0281 ICR2958 (018), 5 May 2008, 269, VPL.2000.0003.1009; Exhibit RC0281 ICR2958 (018), 6 May 2008, 270, 272, VPL.2000.0003.1010, .1012

⁴⁴¹⁸ Exhibit RC0281 ICR2958 (025), 19 June 2008, 466, VPL.2000.0003.1010, .1206; Exhibit RC0560 Inspector Dale Flynn diary, 19 June 2008, 33, RCMP.I.0062.0002.0002 @.0033

⁴⁴¹⁹ Exhibit RC0281 ICR2958 (025), 19 June 2008, 467, VPL.2000.0003.1010, .1207

⁴⁴²⁰ Exhibit RC0281 ICR2958 (025), 20 June 2008, 468, VPL.2000.0003.1010, .1208

⁴⁴²¹ Exhibit RC0281 ICR2958 (026), 3 July 2008, 479, VPL.2000.0003.1010, 1219

was told the future court dates for Mr Kurnaz and that Mr Flynn would be seeking the same dates for Mr El-Hage.⁴⁴²²

3259. On 22 July 2008, Mr Flynn spoke with Ms Gobbo a number of times in relation to arrangements for Mr El-Hage to surrender himself into custody at her chambers, and in relation to his bail arrangements.⁴⁴²³
3260. During the day, Mr Flynn also spoke with Mr Cooper about Messrs Kurnaz and El-Hage.⁴⁴²⁴
3261. On the morning of 23 July 2008, Mr Flynn spoke with Ms Gobbo and agreed bail conditions for Mr El-Hage upon his arrest including surety, reporting and so forth. Later, Mr Flynn attended at Ms Gobbo's chambers and arrested Mr El-Hage. Mr Grigor was also present. Once the charges were filed the 'consent' bail application was heard. Mr Flynn gave a short summary of the evidence and Mr El-Hage was bailed on the terms previously agreed between Mr Flynn and Ms Gobbo.⁴⁴²⁵
3262. Ms Gobbo reported to Mr Wolf her admiration of Mr Flynn and that the bail application had proceeded smoothly. She also reported having secretly obtained all the phone numbers from Mr El-Hage's phone.⁴⁴²⁶
3263. On 25 July 2008, Ms Gobbo reported to Mr Wolf that the statement of Mr Thomas, which had been served on the brief for the Operation Matchless matter in relation to [REDACTED], was [REDACTED] and included [REDACTED]. Ms Gobbo indicated she wanted to ring Mr Flynn about the matter, indicating this would be normal practice given her 'interest' in El-Hage and her 'overall interests' in Mr Thomas. Ms Gobbo said she was concerned Mr Flynn had committed an offence in disclosing [REDACTED] matter.⁴⁴²⁷
3264. Ms Gobbo charged Mr El-Hage \$2,000 for her representation at the bail application, and a further \$2,500 for her preparation of committal documents and her appearance at his committal mention.⁴⁴²⁸

Evidence of Flynn

3265. Mr Flynn agreed that Mr El-Hage became a suspect in relation to the threats to Ms Gobbo at the time of the arson on her car, that he had been the first person Ms Gobbo had called, and they had discussed her relationship with Mr El-Hage.⁴⁴²⁹

⁴⁴²² Exhibit RC0560 Inspector Dale Flynn diary, 21 July 2008, 49-51, RCMP.0062.0002.0002 @.0049-.0051;

Exhibit RC0281 ICR2958 (029), 21 July 2008, 502, VPL.2000.0003.1010, .1242

⁴⁴²³ Exhibit RC0560 Inspector Dale Flynn diary, 21 July 2008, 51, RCMP.0062.0002.0002 @.0051

⁴⁴²⁴ Exhibit RC0560 Inspector Dale Flynn diary, 21 July 2008, 51, RCMP.0062.0002.0002 @.0051

⁴⁴²⁵ Exhibit RC0560 Inspector Dale Flynn diary, 21 July 2008, 51- 52, RCMP.0062.0002.0002 @.0051-.0052

⁴⁴²⁶ Exhibit RC0281 ICR2958 (029), 23 July 2008, 507 VPL.2000.0003.1247

⁴⁴²⁷ Exhibit RC0281 ICR2958 (029), 25 July 2008, 507 VPL.2000.0003.1250

⁴⁴²⁸ Exhibit RC1568 Ms Nicola Gobbo fee book, 25 July 2008, 20, MIN.5000.7000.0103 @ 0122; Exhibit RC1568 Ms Nicola Gobbo fee book, 13 October 2008, 23, MIN.5000.7000.0103 @.0125

⁴⁴²⁹ Transcript of Inspector Dale Flynn, 3 October 2019, 7183-7185, RC_MPI_03Oct19_provisional

3266. Mr Flynn said he was not aware of Ms Gobbo having charged fees for representing Mr El-Hage but given that she was supposedly acting for him and arranging his bail, he agreed it was unsurprising that she did so.⁴⁴³⁰
3267. When asked whether he accepted that Ms Gobbo's job on behalf of Mr El-Hage would involve her seeking appropriate disclosure, which would include communications between she and Mr Cooper that would reveal her as a person who was a human source, Mr Flynn said he did not know how to answer that question, indicating it could be something she could be 'tasked' to do. He accepted this was what Mr Shirrefs had been doing for his client, but that Ms Gobbo was unable to do this.⁴⁴³¹
3268. Mr Flynn was asked about the way in which he was dealing with Ms Gobbo in respect of Mr El-Hage:

MR WINNEKE: [I]n what capacity were you dealing with Ms Gobbo on that occasion?

MR FLYNN: As Mr El-Hage's legal representative.

MR WINNEKE: She had other capacities, she was also a human source and she was also potentially a victim of Mr El-Hage?

MR FLYNN: Well, Mr El-Hage was a suspect. I mean whether she continues to deal with him or not is a matter for her.

MR WINNEKE: Yes?

MR FLYNN: Well the human source issues but, you know, we've mentioned.

MR WINNEKE: She knew of all of these particular issues?

MR FLYNN: She did, yes.

MR WINNEKE: You knew of all these particular issues?

MR FLYNN: Yes.

MR WINNEKE: She's, as I suggested before, had some sort of ethical bypass, but you don't?

MR FLYNN: No.

MR WINNEKE: You've got the trifecta here, she's the legal representative, she's the human source and she's the victim?

MR FLYNN: Yes, well the victim didn't concern me too much. That was as part of the investigation because she was with Mr El-Hage, you know, it's a natural conclusion for an investigator to think, well, he might have told someone that this is where she was and that's how her car was damaged. So he was a suspect from that stage.

⁴⁴³⁰ Transcript of Inspector Dale Flynn, 3 October 2019, 7186, RC_MPI_03Oct19_provisional

⁴⁴³¹ Transcript of Inspector Dale Flynn, 3 October 2019, 7186 RC_MPI_03Oct19_provisional

I don't know her thoughts in relation to how strongly or weakly she thought she was a victim. And the human source matters, well, you know, we've discussed those quite a bit but at this stage when she was speaking to me, I mean I wasn't even at the Purana Task Force at this stage, I was just the informant for the El-Hage brief, and it was a fairly simple matter just to go through the process of arranging him to be charged and bailed.

MR WINNEKE: I follow that. But look, sitting where you are now and looking back, it almost makes your head spin what's going on here?

MR FLYNN: It's certainly a complex matter, I don't down play that in any fashion. But I come back to a previous answer about the conflict of her involvement with Mr El-Hage and others was matter for her.

3269. Mr Flynn knew that Ms Gobbo was a human source who supplied information about Mr El-Hage, and had specifically sought assistance from her in that regard.
3270. He knew she had previously represented two of the primary witnesses against Mr El-Hage, Messrs Cooper and Thomas, including her involvement in the statement taking process of at least Mr Cooper.
3271. He had been dealing with Ms Gobbo as a victim in respect of threats where Mr El-Hage was a suspect.
3272. He then dealt with her as Mr El-Hage's legal representative, in circumstances where, it is submitted, he knew that Mr El-Hage would not receive independent legal advice.

18 June 2008 – Monthly Source Review

3273. On 18 June 2008, Mr Sandy White completed a Monthly Source Review.⁴⁴³² It was noted that Ms Gobbo remained of high value as an informer, despite the fact that little of her intelligence could be disseminated. In terms of risk, it was noted that whilst the Mokbel and Williams 'camps' were suggesting Ms Gobbo was a 'dog' there was no suggestion she was an informer. Ms Gobbo's risk was nevertheless assessed as remaining high given the possibility of compromise by virtue of her involvement with Mr Cooper in pending court hearings. This was said to be increased by the potential of her being called to give evidence at a number of hearings, including the OPI hearing which would have to be managed carefully.
3274. Mr Sandy White stated that Ms Gobbo must be managed by the SDU until at least all court matters that may compromise her were completed. Meanwhile the SDU would continue to speak with Ms Gobbo regarding an exit strategy.

⁴⁴³² RC0284 SML2958, 18 June 2008, 32, VPL.2000.0001.9236 @.9267

3275. Around this time the SDU began to disseminate information from Ms Gobbo to Mr Jason Kelly and Mr Tim Johns at the Purana Taskforce in relation to alleged money laundering being engaged in by Mr Karam and others.⁴⁴³³

August 2008 – Gobbo Avoids the OPI

3276. As referred to earlier, on 19 July and 17 August 2007, Ms Gobbo had been summoned and examined by the OPI. The experience had been uncomfortable and upsetting. On the second occasion it was suggested Ms Gobbo was not being truthful and the proceeding was adjourned for her to seek legal advice.

3277. Ms Gobbo had previously reported seeking advice from Mr Ian Hill, however there was discussion with the SDU about not revealing to him her role as a human source.

3278. On 10 June 2008, the OPI conducted public hearings relating to alleged links between Mr Dale and former colleagues, who may have leaked information to him about the Petra Taskforce, and therefore interfered with the work of the taskforce.⁴⁴³⁴

3279. Ms Gobbo expressed concern on a number of occasions to the SDU about what might come out at the hearings, and her fear of being called back before the OPI. She spoke of her intention not to go back to the OPI if called upon to do so.⁴⁴³⁵

3280. On 4 August 2008, Ms Gobbo raised her concern again, stating that she could not be represented by anyone, as her role could not be kept a secret. It was noted that promises to protect her involving very high-level discussions on the last occasion had failed. Ms Gobbo said she would not go back and be accused of perjury or lying again. She requested that an approach be made to someone to ascertain the OPI's intentions.⁴⁴³⁶

3281. On 7 August 2008, Mr Sandy White spoke with Mr O'Connell at the Petra Taskforce, who was aware of Ms Gobbo's status as a human source. He told Mr O'Connell that the part-heard OPI hearing was causing Ms Gobbo a great deal of stress and that she would not answer questions for fear of exposing herself as a source if called back, and would rather run the risk of being charged with contempt. Mr Sandy White stated that Ms Gobbo had spent 36 hours with Petra Taskforce investigators providing information and

⁴⁴³³ See for example: [REDACTED]

⁴⁴³⁴ See, e.g., Exhibit RC1825 Transcript of Proceedings, *Hearing pursuant to s 86PA of the Police Regulation Act 1958 (Vic)* (Office of Police Integrity, Delegate of the Director Murray Wilcox QC, 10 June 2008), PND.021.003.0002, PND.029.001.0614; See also Norrie Ross, 'Office of Police Integrity Probes Dale', *Herald Sun* (online, 10 June 2008) <<https://www.heraldsun.com.au/news/victoria/cop-leak-linked-to-murder/news-story/eb3bca5c0c08fb00ee5f357658a73ed6?sv=9b08d1c7ec7c397f299876a0c78a1144>>.

⁴⁴³⁵ Exhibit RC0281 ICR2958 (023), 10 June 2008, 410, 412-3, VPL.2000.0003.1150, 1152-.1153; Exhibit RC0281 ICR2958 (024), 17 June 2008, 456, VPL.2000.0003.1196; Exhibit RC0281 ICR2598 (028), 17 July 2008, 494, VPL.2000.0003.1234; Exhibit RC0281 ICR2598 (029), 20 July 2008, 500, VPL.2000.0003.1240; RC0284 SML2958, 17 July 2008, 36, VPL.2000.0001.9236 @.9271

⁴⁴³⁶ RC0281, ICR2958, 4 August 2008, 532-533; RC0284, SML2958, 4 August 2008, 37

asked whether that information had been passed to the OPI and whether they were satisfied with her co-operation. He requested Mr O'Connell make enquiries in relation to the OPI's intentions in respect of Ms Gobbo, and also asked whether such information could be conveyed to Ms Gobbo to assist with her management. Mr Sandy White advised Mr O'Connell of his understanding that Mr Ashton and senior management at the OPI had been briefed by Mr Overland in relation to Ms Gobbo's identity as a source prior to her giving evidence for the purpose of protecting her from compromising questions, which had not been successful.⁴⁴³⁷

3282. On 13 August 2008, Mr O'Connell advised Mr Sandy White that he had spoken with Mr Overland, who in turn had spoken with Mr Ashton at the OPI, who advised that Ms Gobbo would not be called back to OPI hearings, the OPI being satisfied that Ms Gobbo had been of assistance to Petra Taskforce investigators.⁴⁴³⁸ There are no written records of Mr O'Connell's communication with Mr Overland, or of Mr Overland's communication with Mr Ashton.
3283. On 15 August 2008, Ms Gobbo asked her handler to thank Mr Sandy White in relation to the OPI.⁴⁴³⁹ She had clearly been told she would no longer be called back for examination by Mr Fitzgerald. There is no written record as to what she was told.
3284. In July 2008, Detective Inspector Steven Smith had taken over charge of the Petra Taskforce from Mr O'Connell, who had been acting since the previous year.⁴⁴⁴⁰
3285. Messrs Smith and O'Connell worked closely following that time, and Mr O'Connell continued to brief the Petra Taskforce Management Committee until Mr Smith familiarised himself sufficiently with the investigation. This was done by way of verbal briefings by Messrs O'Connell, Solomon and Davey and review of taskforce material. Mr Smith was aware from the outset that Ms Gobbo was a person of interest in the investigation given that Carl Williams had indicated she was the link between he and Mr Dale.⁴⁴⁴¹ It is apparent he was not briefed immediately by Mr O'Connell that Ms Gobbo was a human source. During a meeting between Messrs Black and O'Connell on 22 July 2007, Black noted that '*D/I Smith does not know the identity of HS 3838*'.⁴⁴⁴²
3286. Mr Smith gave evidence that he believed he was told that Ms Gobbo was a human source registered with the SDU a few months after his arrival at the Petra Taskforce, around the time that Petra proposed to re-interview her. In the course of his examination at the Commission, Mr Smith's attention was drawn to discussions involving Messrs O'Connell, Sandy White, Overland and Ashton in August 2008 about not calling Ms Gobbo back before the OPI. Mr Smith said that he expected he would have been briefed about that matter and that it would have been dealt with within the Petra Taskforce Management Committee. Mr Smith said he may well have been informed

⁴⁴³⁷ RC0284 SML2958, 7 August 2008, 38, VPL.2000.0001.9236 @.9273

⁴⁴³⁸ RC0284 SML2958, 13 August 2008, 39, VPL.2000.0001.9236 @.9274

⁴⁴³⁹ Exhibit RC0281 ICR2958 (034), 15 August 2008, 558, VPL.2000.0003.1298

⁴⁴⁴⁰ Exhibit RC1767 Petra Taskforce Update, 30 June 2008, 138, VPL.0100.0020.5275 @.5412

⁴⁴⁴¹ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13916 [1] – 1390 [1], 13923 [44] – 13925 [18], TRN.2020.02.12.01.P

⁴⁴⁴² RC0591 Mr Black diary, 22 July 2008, 518-9, RCMP1.0090.0001.0001 @.0518-.0519

following this time that the SDU had previously debriefed Ms Gobbo in May 2007, and about her appearances before the OPI in July and August 2007. He was certainly aware that Messrs Solomon and Davey were directed to submit questions, he believed to the Petra Taskforce Management Committee, prior to interviewing Ms Gobbo in February 2008, which was unusual.⁴⁴⁴³

August 2008 – OPI Request for Human Source Information

Background

3287. One of the off-shoot Petra Taskforce operations, also included in the weekly updates, was Operation Dander. This involved an investigation of the leak of sensitive police documents and was also a joint investigation with the OPI. Amongst other matters, the documents revealed the identities of known police informers, human sources and members of the legal profession.⁴⁴⁴⁴ A particular police member who worked in the State Surveillance Unit had been identified as the primary person of interest responsible for the leak.⁴⁴⁴⁵
3288. In early June 2006, Ms Gobbo had provided information to the SDU about leaking by that particular police member. At that time there was additional concern, as this member had been involved in surveillance upon the Strathmore laboratory and it was unknown whether he knew of Ms Gobbo's assistance. Ms Gobbo reported being told that the police member had said to Danny Hafner, that following the arrest of Milad Mokbel, he had seen Mr Hafner's name on a document. The police member had referred to a folder.⁴⁴⁴⁶
3289. Following the arrest of Rodney Collins in June 2008 for the murders of Ramon and Dorothy Abbey, searches located various items including a large number of pages of a computer-generated confidential Victoria Police document. In July 2008, Petra Taskforce investigators received information from a number of human sources that Sonny Otene and John Higgs were in possession of parts of the document.⁴⁴⁴⁷
3290. On 22 July 2008, Mr Black attended a meeting with Mr O'Connell and Detective Sergeant Brent Fisher from the Petra Taskforce. It is apparent that Mr Fisher was working on a spin-off Petra Taskforce investigation. He had been told Ms Gobbo's human source identity by Mr Biggin. Mr Fisher wanted Ms Gobbo to be tasked back to Mr Danny Hafner. Ms Gobbo had previously provided information to the SDU about Mr Hafner. Mr Black told

⁴⁴⁴³ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13916 [1] – 1390 [1], 13923 [44] – 13925 [18], TRN.2020.02.12.01.P

⁴⁴⁴⁴ Exhibit RC1657 Unsigned affidavit of Mr Shane O'Connell, 1 November 2008, 1 [3], [5], [6], VPL.2100.0025.1274

⁴⁴⁴⁵ Exhibit RC1772 Unexecuted Operation Petra Joint Agency Agreement, June 2007, 242, VPL.0100.0001.5402 @.5643

⁴⁴⁴⁶ RC0284, SML3838, 1-5 June 2006, 33-34, VPL.2000.0001.9447 @.9479-.9480; Exhibit RC0281 ICR3838 (033), 1-2 June 2006, 314-316, VPL.2000.0003.1900-02; Exhibit RC0281 ICR3838 (034), 7 June 2006, 320, VPL.2000.0003.1906; Exhibit RC0281 ICR3838 (034), 10 June 2006, 326, VPL.2000.0003.1912

⁴⁴⁴⁷ Exhibit RC1657 Unsigned affidavit of Mr Shane O'Connell, 1 November 2008, 1 [3], 2 [5], [6], 4 [15], VPL.2100.0025.1274 @.1274-.1275, .1277

Messrs O'Connell and Fisher that the SDU would not task Ms Gobbo and that Command had sanctioned that decision.⁴⁴⁴⁸

Direction to Give Ashton Human Source Details

3291. On 1 August 2008, Mr Biggin was informed by Mr Moloney of a direction by Mr Overland to supply Mr Ashton at the OPI with the details of the human sources involved. Mr Biggin spoke with Messrs Sandy White and Porter, then prepared a report in the form of an Issue Cover Sheet with the information which was provided to Mr Moloney to give to Mr Ashton.⁴⁴⁴⁹
3292. The report advised:
- that Ms Gobbo was one of the human sources, who had reported being told of the possible leak in 2006
 - there was camera surveillance on her home in relation to threats to kill. The report also noted, in relation to another of the human sources, that the information had been supplied by an Inspector after the controller of that individual declined to provide the details to the SDU after having been directed to do so by the ESD.⁴⁴⁵⁰
3293. On 12 August 2008, Mr Ashton made a further request to Mr Overland for mobile telephone details in relation to the human sources. He noted that the information was known only to him and was to ensure that the OPI did not 'inadvertently trip over any authorised police activity'.⁴⁴⁵¹ Mr Overland then directed Mr Moloney, who directed Biggin, who directed the SDU to provide the details. On 13 August 2008, Mr Biggin wrote a further report providing the details.⁴⁴⁵²
3294. A joint agency agreement had been executed in respect of this operation.⁴⁴⁵³ According to the unexecuted agreement contained on Mr Cornelius' Petra File, which presumably was in a similar form to that executed, the Operations Management Group comprised of Messrs Overland, Cornelius and Ashton. Its responsibilities included 'overall management of Human Sources'. It stated that '... the identity of any registered informers or confidential sources is not to be disclosed to any persons not directly involved in the investigation without the approval of the Operations Management Group'.⁴⁴⁵⁴

⁴⁴⁴⁸ Exhibit RC0591 Mr Black diary, 22 July 2008, 519, RCMPPI.0090.0001.0001 @.0519; RC0284, SML3838, 1-5 June 2006, 33-34, VPL.2000.0001.9447 @.9479-.9480; Exhibit RC0281 ICR3838 (033), 1-2 June 2006, 314-316, VPL.2000.0003.1900-.1902; Exhibit RC0281 ICR3838 (034), 7 June 2006, 320, VPL.2000.0003.1906; Exhibit RC0281 ICR3838 (034), 10 June 2006, 326, VPL.2000.0003.1912

⁴⁴⁴⁹ Exhibit RC0578, Mr Anthony (Tony) Biggin diary, 5 December 2008, 691, RCMPPI.0075.0001.0001 @.0691; Exhibit RC0578 Mr Anthony (Tony) Biggin diary summary, 5 December 2008, 22 VPL.0005.0154.0001 @.0022

⁴⁴⁵⁰ Exhibit RC0516 Issue Cover Sheet signed by Mr Anthony (Tony) Biggin, 1 August 2008, VPL.0010.0001.0016

⁴⁴⁵¹ Exhibit RC0377, Email chain including email from Graham Ashton to Simon Overland, 12-13 August 2008, 2, VPL.6025.0003.8209 @.8210

⁴⁴⁵² RC0517 Issue Cover Sheet signed by Mr Anthony (Tony) Biggin, 13 August 2008 VPL.0010.0001.0017

⁴⁴⁵³ Exhibit RC1770 Petra Taskforce Weekly Update, 23 June 2007, 272 VPL.0100.0001.5402 @.5673

⁴⁴⁵⁴ Exhibit RC1772 Unexecuted Operation Petra Joint Agency Agreement, June 2007, 244 VPL.0100.0001.5402 @.5645, .5652

August – September 2008 – Subpoena Issue in the Horty Mokbel Committal

3295. At this time, as is seen in Chapter 16, the events concerning Mr Johns and others concerning the subpoena issue in Mr Horty Mokbel's committal were proceeding.

August - September 2008 – Carl Williams Again Identifies Conflict

Background

3296. In mid-2007, Ms Gobbo had provided the police with documents which had led to the world's biggest seizure of ecstasy, known as the 'Tomato Tin's importation'. Ms Gobbo told the police that Mr Karam had provided her with the envelope from Mr Mannella to hold in case he went into custody (he was undergoing trial) at the time. At the time Ms Gobbo was representing Mr Karam. She had previously represented Mr Mannella and continued to associate with him.⁴⁴⁵⁵

3297. Following the seizure, Ms Gobbo was implored by Mr Sandy White not to represent anyone arrested as a result. A little over a year later, on 8 August 2008, a number of people were arrested following investigations relating to the Tomato Tins importation. Ms Gobbo told her handler, Mr Green, that she had been to the custody centre to advise numerous of those arrested, including Messrs Karam, Higgs, Barbaro, DiPietro and Mr Antonio Sergi.⁴⁴⁵⁶

3298. During the conversation Ms Gobbo told Mr Green that she believed that another former client of hers, [REDACTED] as it did not appear that he [REDACTED] when she would have expected he would be. Ms Gobbo expressed serious concerns if [REDACTED] told the [REDACTED] about the [REDACTED].⁴⁴⁵⁷

3299. She told Mr Green that she would not make a statement to the AFP that would exclude her representing Mr Karam. She had told Mr Green that during the AFP search of Mr Karam's sister's home, they had missed a crucial laptop.⁴⁴⁵⁸

3300. The following day, Ms Gobbo told Mr Green that [REDACTED] [REDACTED] questioning why Messrs Karam and Higgs had been charged [REDACTED].⁴⁴⁵⁹

3301. On 14 August 2008, Ms Gobbo raised again [REDACTED] and the possibility he [REDACTED].⁴⁴⁶⁰

3302. On 18 August 2008, Ms Gobbo told Mr Green that she was still questioning whether [REDACTED] had [REDACTED] and that she had received a message from [REDACTED] to [REDACTED] that she should stop spreading rumours. It appears that [REDACTED] is a reference to [REDACTED].

⁴⁴⁵⁵ See Chapter 16.

⁴⁴⁵⁶ Exhibit RC0821, ICR2958 (033), 8 August 2008, 547, VPL.2000.0003.1287

⁴⁴⁵⁷ Exhibit RC0821, ICR2958 (033), 8 August 2008, 547, VPL.2000.0003.1287

⁴⁴⁵⁸ Exhibit RC0821, ICR2958 (033), 8 August 2008, 547, VPL.2000.0003.1287

⁴⁴⁵⁹ Exhibit RC0821, ICR2958 (033), 9 August 2008, 549, VPL.2000.0003.1289

⁴⁴⁶⁰ Exhibit RC0821, ICR2958 (033), 14 August 2008, 556, VPL.2000.0003.1296

4 September 2008 – Visit to the Prison and Receipt of Letters

3303. On 4 September 2008, Messrs Waddell and Trichias visited Mr Gregory at ██████ Prison.⁴⁴⁶¹ Mr Gregory made around six statements in relation to the Briars Taskforce investigation. Mr Wilson agreed that Mr Gregory would also hang on to and drip feed information to Victoria Police.⁴⁴⁶² On this occasion, Mr Gregory provided information in relation to Mr Waters.⁴⁴⁶³

3304. Whilst at ██████ Prison, Mr Waddell was provided four letters relating to Ms Gobbo and inmates at ██████ Prison.⁴⁴⁶⁴

3305. Mr Sandy White recorded in his diary speaking with Mr Waddell that day:

Call from DDI WADDELL, Briars.

Have received intercepted letters from ██████ jail b/w MANELLA and WILLIAMS which discuss 3838 in derogatory terms. Is a response to letter she sent MANELLA. Identifies her as a dog. Will send copies.⁴⁴⁶⁵

3306. It is apparent that Mr Waddell also discussed the letters with Mr Wilson.⁴⁴⁶⁶ Mr Wilson had been the Superintendent overseeing the Briars Taskforce until July 2008 when he had become chief of staff to the Chief Commissioner. Following this time, he remained involved with the Briars Taskforce, attending meetings and maintaining general oversight and awareness as to what was going on.⁴⁴⁶⁷

3307. Mr Waddell later scanned and emailed the letters to Mr Wilson, copying in Mr Sandy White, noting 'as discussed'.⁴⁴⁶⁸ The letters contained pen marks indicating portions relating to Ms Gobbo.⁴⁴⁶⁹

3308. The first letter was from Ms Gobbo to Mr Mannella dated 16 August 2008, written on Ms Gobbo's professional letterhead. In it, Ms Gobbo indicated she was upset with Mr Mannella regarding an insulting message. It is to be inferred this was the message Ms Gobbo had received from Myer Dagher that she should stop spreading rumours about Mr Mannella:

Dear Joe,

I hope you are well and that time is passing quickly for you.

⁴⁴⁶¹ Exhibit RC1204 Mr Stephen Waddell diary, 4 September 2008, 7, RCMP1.0146.0001.0001 @.0007; Transcript of Mr Stephen Waddell, 13 February 2020, 14029, RC_MPI_13Feb20_provisional

⁴⁴⁶² Transcript of Mr Rodney Wilson, 4 December 2019, 10477, TRN.2019.12.04.01.P

⁴⁴⁶³ Exhibit RC1204 Mr Stephen Waddell diary, 4 September 2008, 7, RCMP1.0146.0001.0001 @.0007; Transcript of Mr Stephen Waddell, 13 February 2020, 14029, RC_MPI_13Feb20_provisional

⁴⁴⁶⁴ Exhibit RC1196 Statement of Mr Stephen Waddell, 17 September 2019, 6, [28] VPL.0014.0055.0001 at @.0006

⁴⁴⁶⁵ Exhibit RC0305 Mr Sandy White diary, 4 September 2008, 19 VPL.2000.0001.1568 @.1586

⁴⁴⁶⁶ Exhibit RC0831A Email from Mr Stephen Waddell to Mr Rodney Wilson and Mr Sandy White, 4 September 2008 VPL.6025.0003.3581

⁴⁴⁶⁷ Exhibit RC0825 Statement of Mr Rodney Wilson, 19 November 2019, 7-8 [45-46], VPL.0014.0094.0001 @.0007-.0008

⁴⁴⁶⁸ Exhibit RC0831A Email from Mr Stephen Waddell to Mr Rodney Wilson and Mr Sandy White, 4 September 2008 VPL.6025.0003.3581

⁴⁴⁶⁹ See Exhibit RC0831I Letter from Mr Matthew Johnson to Mr Joseph Manella, 1 September 2008, 3 VPL.6025.0003.3585 @.3587; Exhibit RC0831G Letter from Mr Carl Williams to Mr Danny Heaney, 30 August 2008, 2-4 VPL.6025.0003.3589 @.3690.3692; Exhibit RC0831E Letter from Mr Carl Williams to Mr Joseph Manella, 28 August 2008, 2 VPL.6025.0003.3582 @.3583

I thought it appropriate to write to you to indicate that I was most concerned about an offensive and insulting message that was delivered to me apparently at your request.

You of all people ought to know where I stand and I hope that you did not actually ask an ill-informed idiot to convey a stupid message to me (apparently in response to something I'm meant to have said concerning you.)

I considered you to be a better judge of character than that.

I have a significant amount of work at present and would not waste my time commenting on matters that do not directly concern me or my clients.

As usual the amount of misinformation being spread about all and sundry appears to be having the desired effect.

Anyway, I would be quite upset if I were to think you had intended to insult me.

Regards,

Nicola⁴⁴⁷⁰

3309. It is clear from what follows, that Mr Mannella had sent correspondence to Mr Carl Williams and others about his issue with Ms Gobbo.
3310. In the second letter, from Mr Carl Williams to Mr Mannella, dated 28 August 2008 and sent on 29 August 2008, he referred to earlier correspondence from Mr Mannella and then described Ms Gobbo as an 'an evil cunt' and a 'no good dog, plain and simple'.⁴⁴⁷¹ Mr Carl Williams said that:
- a. he firmly believes that the police have something over her and that they send her in to people to get them to roll
 - b. he had confronted her in relation to that in the past and believes she virtually agreed with him
 - c. Ms Gobbo was running [Mr Mannella] down and not to worry about it⁴⁴⁷²
3311. In the third letter, a letter from Mr Matthew Johnson to Mr Mannella, dated and sent on 1 September 2008, Mr Johnson referred to Ms Gobbo as a 'Dog Slut'.⁴⁴⁷³
3312. In the fourth letter, a letter from Mr Carl Williams to Mr Danny Heaney, dated 30 August 2008 and sent on 1 September 2008, Mr Carl Williams outlined his views in relation to Ms Gobbo, including:
- a. his belief that the police had something over Ms Gobbo
 - b. that he had caught Ms Gobbo out after having issued subpoenas
 - c. that he spoken to her about this face to face

⁴⁴⁷⁰ Exhibit RC0831C Letter from Mr Nicola Gobbo to Mr Joe Manella, 16 August 2008
VPL.6025.0003.3593

⁴⁴⁷¹ Exhibit RC0831E Letter from Mr Carl Williams to Mr Joseph Manella, 28 August 2008, 2,
VPL.6025.0003.3582 @.3583

⁴⁴⁷² Exhibit RC0831E Letter from Mr Carl Williams to Mr Joseph Manella, 28 August 2008, 2
VPL.6025.0003.3582 @.3583

⁴⁴⁷³ Exhibit RC0831I Letter from Mr Matthew Johnson to Mr Joseph Manella, 1 September 2008, 3,
VPL.6025.0003.3585 @.3587

- d. that he had shown Mr Milad Mokbel paperwork which proved that she was no good, but that Milad did not seem to care and had stayed in touch with Ms Gobbo in the belief that she would help him out and that she would never do anything wrong by him or his family
 - e. that after Mr Horty Mokbel had his committal hearing (November 2007), it was discovered that Mr Cooper had decided to co-operate after speaking with Ms Gobbo, which led to the arrest of Milad, Renate (indirectly), Horty, Tony and Kabalan Mokbel
 - f. that finally the Mokbels had decided Ms Gobbo was no good and he had told them 'she's alright, she's only giving her clients the best advice – it's up to them whether they take it or not (ha ha)'
 - g. that now none of the Mokbels were in contact with her
 - h. that Ms Gobbo is with the DON
 - i. that Ms Gobbo told Mr Thomas to roll, and he had made statements about Faruk Orman, which is why Mr Orman was charged with two murders
 - j. that now Ms Gobbo was acting for Faruk Orman as though there is no conflict of interest
 - k. that as the Law Institute say it is OK for her to act for Mr Orman, the law is/has been thrown out the window.⁴⁴⁷⁴
3313. In his statement to the Commission, Mr Waddell indicated he had no recollection of the discussion with Mr Sandy White, saying that he paid little attention to the letters, other than to pass them on to Messrs Wilson and Sandy White.⁴⁴⁷⁵ During his evidence to the Commission, Mr Waddell accepted that he had clearly read the letters. When questioned about the pen markings contained on each letter, Mr Waddell said he did not recall marking up the letters but that whoever did, had done so to draw attention to sections they considered relevant in relation to security issues. He said that his function on that day 'was purely as courier'.⁴⁴⁷⁶
3314. These were the two matters arising from the visit by Messrs Waddell and Mr Trichias to the prison the day before.
3315. Mr Wilson agreed given the email from Mr Waddell containing the prison letters had noted 'as discussed', he had some discussion about the content of the email prior to receiving it.⁴⁴⁷⁷ Mr Wilson said he did not recall reading the letters but that he 'obviously would have read them at the time'.⁴⁴⁷⁸ Mr Wilson also accepted that whilst he didn't recall it, he would have received a briefing from Mr Waddell about the information provided by Mr Gregory.⁴⁴⁷⁹

⁴⁴⁷⁴ Exhibit RC0831G Letter from Mr Carl Williams to Mr Danny Heaney, 30 August 2008, VPL.6025.0003.3589

⁴⁴⁷⁵ Exhibit RC1196 Statement of Mr Stephen Waddell, 17 September 2019, 6 [28-29] VPL.0014.0055.0001 @.0006

⁴⁴⁷⁶ Transcript of Mr Stephen Waddell, 13 February 2020, 14030, RC_MPI_13Feb_provisional

⁴⁴⁷⁷ Transcript of Mr Rodney Wilson, 4 December 2019, 10478, TRN.2019.12.04.01.P

⁴⁴⁷⁸ Transcript of Mr Rodney Wilson, 4 December 2019, 10482, TRN.2019.12.04.01.P

⁴⁴⁷⁹ Transcript of Mr Rodney Wilson, 4 December 2019, 10478, TRN.2019.12.04.01.P

3316. As to the contents of the letters, Mr Wilson said that it would have been of concern to him to know that Ms Gobbo was a source acting in conflict in relation to her representation of clients. However, Mr Wilson noted that what was more concerning to him was the fact that she was a source who was seen to be commonly known in certain circles as assisting police and advising certain people to 'roll'.⁴⁴⁸⁰
3317. Mr Wilson stated that he was under the impression that he had been sent these letters by Mr Waddell because there had been some reluctance to use Ms Gobbo by the Briars Taskforce.⁴⁴⁸¹ He suggested that letters indicated that 'sort of the cat was out of the bag a little bit here', referring to her being a lawyer willing to aid people to 'roll' on people she had previously been seen to be aligned with rather than her status as a human source.⁴⁴⁸²
3318. Mr Wilson agreed that it was concern if a lawyer who was a police agent, had advised a client to roll and then was advising the next client that the first client had rolled on them. Mr Wilson stated to the Commission that this was 'certainly a conflict of interest, as Carl pointed out'.⁴⁴⁸³
3319. When Mr Wilson was questioned about what steps he had taken as to such issues, he responded 'no, I didn't do anything about that at the time because I assumed that these letters were obviously, in the possession of the relevant police, as in handlers like Mr Sandy White'.⁴⁴⁸⁴
3320. Mr Wilson had learned of Ms Gobbo's human source status, and her management by the SDU, during the Operation Khadi investigation in 2006. He also knew at that time that Mr Overland had cause to become involved to ensure Ms Gobbo's protection by her having to give evidence before the OPI. He knew Ms Gobbo to be someone who represented significant organised crime figures including Mr Tony Mokbel.⁴⁴⁸⁵ By virtue of these letters:
- he was given information that Ms Gobbo had been involved in advising Mr Cooper to co-operate against Mr Tony Mokbel and others.
 - he was given information that Ms Gobbo had been involved in advising Mr Thomas, who had made statements against Mr Orman, whom Ms Gobbo was now representing.
3321. If these assertions were true, then the conflicts of interest were occurring whilst Ms Gobbo was being handled by the SDU.
3322. It is submitted that Mr Wilson, as Superintendent, did not take steps to ascertain if there was any truth as to the assertions of Ms Gobbo acting in a conflict of interest, and if so, whether appropriate steps were being taken by Victoria Police.
3323. On 5 September 2008, Mr Wilson recorded in his diary:

⁴⁴⁸⁰ Transcript of Mr Rodney Wilson, 4 December 2019, 10482, TRN.2019.12.04.01.P

⁴⁴⁸¹ Transcript of Mr Rodney Wilson, 4 December 2019, 10482, TRN.2019.12.04.01.P

⁴⁴⁸² Transcript of Mr Rodney Wilson, 4 December 2019, 10483, TRN.2019.12.04.01.P

⁴⁴⁸³ Transcript of Mr Rodney Wilson, 4 December 2019, 10482, TRN.2019.12.04.01.P

⁴⁴⁸⁴ Transcript of Mr Rodney Wilson, 4 December 2019, 10482, TRN.2019.12.04.01.P

⁴⁴⁸⁵ Transcript of Mr Rodney Wilson, 4 December 2019, 10418, TRN.2019.12.04.01.P

Briefed D/C Overland "re 3838 and interview with [Mr Gregory]

3324. Mr Wilson agreed that it would 'make sense' and was likely given he had just received the letters relating to Gobbo, that he discussed them with Mr Overland. He could not recall if he went to Mr Overland to show him the letters.
3325. Mr Wilson stated that it was possible that he and Mr Overland wanted to re-examine the use of Ms Gobbo in the Briars investigations in light of an awareness by those in custody that Ms Gobbo might be acting contrary to the interest of her clients that she has represented, which is what he understood to be the effect of Mr Carl Williams' statements.⁴⁴⁸⁶
3326. Mr Overland told the Commission that he recalled hearing about the letters, although did not believe he had seen them. He said he believed he was made aware of the thrust of the information contained in the letters. When Mr Overland was made aware that the thrust of the information contained in the letters included belief by Mr Carl Williams that Victoria Police were sending Ms Gobbo in to 'roll' clients, and specifically that she had done so with Mr Cooper and Mr Thomas, and was now being permitted to represent Mr Orman in clear circumstances of conflict, he retreated from this concession. He said he did not believe he was given such information and that he was probably only told that the letters had identified Ms Gobbo as a source.⁴⁴⁸⁷
3327. Mr Overland agreed that such information was significant and would have resonated with investigators, and that he would expect Mr Wilson to have briefed him as to the significant parts of the letters. He said he could only assume that Mr Wilson had not told him, otherwise he would have done something about it.⁴⁴⁸⁸
3328. Having become aware of these letters revealing awareness of Ms Gobbo's association with police, Mr Overland did not take any action such as contacting the SDU to understand what was being done about any threat to Ms Gobbo. He said he assumed others would have done that.⁴⁴⁸⁹
3329. It is submitted that Mr Wilson's suggestion as to the purpose of the meeting is likely to be accurate; given the belief by Mr Williams and others in Ms Gobbo's conduct, they were considering whether they could now use Ms Gobbo to progress their investigation. It is submitted that there does not appear to have been a concern about the threat to Ms Gobbo or the apparent conflicts in which she had been engaging with Purana targets with the acquiescence or potential encouragement of Victoria Police.
3330. Mr Cornelius was the chair of the Briars Taskforce. He said he could not recall being briefed about this matter by either Messrs Overland or Wilson.⁴⁴⁹⁰ Assuming this were true, this would appear to be an example of a situation where details of Ms Gobbo's assistance to the Purana Taskforce was kept from Mr Cornelius, albeit with Mr Cornelius' knowledge that this

⁴⁴⁸⁶ Transcript of Mr Rodney Wilson, 4 December 2019, 10483-84, TRN.2019.12.04.01.P

⁴⁴⁸⁷ Transcript of Mr Simon Overland, 19 December 2019, 11804-11805, TRN.2019.12.19.01.P

⁴⁴⁸⁸ Transcript of Mr Simon Overland, 19 December 2019, 11807, TRN.2019.12.19.01.P

⁴⁴⁸⁹ Transcript of Mr Simon Overland, 19 December 2019, 11808, TRN.2019.12.19.01.P

⁴⁴⁹⁰ Transcript of Assistant Commissioner Luke Cornelius, 23 January 2020, 12337, TRN.2020.01.23.01.P

was occurring. During civil litigation between Ms Gobbo and Victoria Police in 2010, a request was made by the Legal Services Division for someone who was across all three investigation areas (Purana, Briars and Petra), to provide an overview to counsel for Victoria Police. Mr Cornelius responded that he was 'deliberately not included in knowledge of all areas'.⁴⁴⁹¹

30 September 2008 – Monthly Source Review

- 3331. On 30 September 2008, the Monthly Source Review was carried out, following the last review on 18 June 2008.
- 3332. The update noted, amongst other matters, the intelligence being supplied by Ms Gobbo about Mr Gatto.
- 3333. Ms Gobbo was assessed as remaining of high value, although diminished as a consequence of being unable to act on intelligence, especially in relation to Mr Gatto, noting however that it had been agreed that intelligence from several months previously about Mr Gatto's ownership in a racehorse could now be passed on to Mr Jim Coghlan.
- 3334. The risk to Ms Gobbo was still regarded as high, despite the lack of actioning of intelligence due to the risk of compromise, most likely as a consequence of the pending Horty Mokbel court hearing.
- 3335. The recommendation remained that there be continued SDU management, with a planned exit strategy involving the reduction of contact and then depending upon whether Mr Cooper's evidence went well, working to end the relationship following the Mokbel court hearings in October 2008. The review noted the need for work to be done towards a reward application for Ms Gobbo.
- 3336. Whilst the SML indicated a lack of dissemination of Gatto intelligence, with the exception of that to Mr Jim Coghlan, the ICRs indicate that Ms Gobbo's intelligence in relation to Mr Gatto was being disseminated to Messrs Edwards and Hatt at the Purana Taskforce. There was no record of this in the SML, which included a column related to disseminations.⁴⁴⁹²

September 2008 – Petra Discover Gobbo Use of False Phones with Dale

Background

- 3337. One of the matters the police were trying to corroborate from Mr Carl Williams' statement related to a call he said that he made to Mr Dale from a public telephone at the Watergardens Shopping Centre. Mr Carl Williams had stated that Ms Gobbo had told him to contact Mr Dale, he then did so from this public telephone, and during the subsequent meeting Mr Dale had requested the killing of Mr Hodson. Mr Carl Williams also stated that he was with his father, Mr George Williams, at the time.

⁴⁴⁹¹ Exhibit RC1666 Email chain involving Peter Lardner, Danye Moloney, Luke Cornelius, Findlay McRae and Anthony (Tony) Biggin, 21-22 May 2010, VPL.6051.0021.0593

⁴⁴⁹² See for example: Exhibit RC0281 ICR02958 (038), 9 September 2008, 596-598, VPL.2000.0003.1336-8; Exhibit RC0281 ICR02958 (040), 23 September 2008, 628-629, VPL.2000.0003.1368-9; Exhibit RC0281 ICR02958 (040), 24 September 2008, 636, VPL.2000.0003.1376; RC0281 ICR02958 (040), 28 September 2008, 644, VPL.2000.0003.1384

3338. On 1 May 2007, a Petra Taskforce Management Committee meeting took place.⁴⁴⁹³ The update indicated that investigators were reading material and getting up to speed, and that their first task would be to corroborate as much of Mr Carl Williams' statement as possible. Officer Terrasse made a handwritten note indicating that someone at the meeting had queried Mr Ryan as to whether ESD had any tracker in Mr Dale's car during the time in which the meeting with Williams was said to have occurred.
3339. On 14 May 2007, the Petra Taskforce Management Committee update indicated that ESD investigation files were required to assist in the investigation and corroboration of Mr Carl Williams' statement. Officer Terrasse indicated that Mr Cornelius would facilitate that matter.⁴⁴⁹⁴
3340. By 28 May 2007, the Petra Taskforce Management Committee were told that investigators had identified evidence indicating that a tracker on Mr George Williams' car revealed that on the afternoon of 6 May 2004 it had attended the Watergardens Shopping Centre, then gone to the Hillside area. Investigators then requested call charge records from three public phones which had been identified at the shopping centre.⁴⁴⁹⁵
3341. On 12 June 2007, the Petra Taskforce Management Committee was told that investigators had received the call charges records and begun to analyse them.⁴⁴⁹⁶
3342. On 25 June 2007, Ms Gobbo was spoken to by the SDU and asked if she could confirm Mr Dale's mobile number in May 2004. She said she would look in an address book.⁴⁴⁹⁷ Later she spoke to the handler and advised that she had used two mobile numbers around that time on which she spoke to Mr Dale, providing two mobile numbers. She indicated that these numbers were legitimately registered through Optus.⁴⁴⁹⁸ Ms Gobbo was reminded that she had previously been tasked to obtain Mr Dale's phone numbers on 3 July 2007,⁴⁴⁹⁹ and then again on 6 July 2007.⁴⁵⁰⁰
3343. On 16 July 2007 Ms Gobbo reported to the SDU in relation to her tasking as to Mr Dale's phone numbers. She said that in 2003 and 2004 she had been on the Orange network and switched to Optus after her stroke in 2004. At that time, she had to manually input her entire address book, and whilst she

⁴⁴⁹³ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 1 May 2007, 469-471, VPL.0100.0013.1314-16; Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 1 May 2007, 15-16, VPL.0100.0129.0015-16; RC0316 Petra Taskforce Weekly Update, 1 May 2007, 376-377, VPL.0100.0001.5777-8

⁴⁴⁹⁴ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 14 May 2007, 449-457, VPL.0100.0013.0846 @.1294-.1302; Exhibit RC1084 Petra Taskforce documents of Mr Simon Overland, Folder 2, 14 May 2007, 40-47, VPL.0100.0129.0001 @.0040-.0047; Exhibit RC0876 Petra Taskforce Weekly Update, 14 May 2007, 381-389, VPL.0100.0001.5782-.5790

⁴⁴⁹⁵ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 28 May 2007, 411-417, VPL.0100.0013.0846 @.1256-.1262; Exhibit RC1084 Petra Taskforce documents of Mr Simon Overland, Folder 2, 28 May 2007, 62-65, VPL.0100.0129.0001 @.0062-.0065; Exhibit RC0936 Petra Taskforce Weekly Update, 28 May 2007, 378-380 VPL.0100.0001.5402 @.5779-.5781

⁴⁴⁹⁶ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 12 June 2007, 397-403 VPL.0100.0013.0846 @.1242-.1248; Exhibit RC1084 Petra Taskforce documents of Mr Simon Overland, Folder 2, 12 June 2007, 70-76 VPL.0100.0129.0001 @.0070-.0076; Exhibit RC1770 Petra Taskforce Weekly Update, 12 June 2007, 370-372, VPL.0100.0001.5402 @.5771-.5773

⁴⁴⁹⁷ Exhibit RC0281 ICR3838 (085), 25 June 2007, 938, VPL.2000.0003.2524

⁴⁴⁹⁸ Exhibit RC0281 ICR3838 (085), 25 June 2007, 939, VPL.2000.0003.2525

⁴⁴⁹⁹ Exhibit RC0281 ICR3838 (087), 3 July 2007, 978, VPL.2000.0003.2564

⁴⁵⁰⁰ Exhibit RC0281 ICR3838 (088), 6 July 2007, 994, VPL.2000.0003.2580

had found the handwritten list that she used, Mr Dale's numbers were not on it. Ms Gobbo said that she had the same two numbers for years, going back prior to 2003, and had only ever telephoned Mr Dale from her mobile number or her office line. She confirmed that there were never any 'bodgy' phones or numbers used between the two of them.⁴⁵⁰¹ This was a lie.

3344. On 17 September 2007, the Petra Taskforce Management Committee were told that enquiries in relation to the public telephones at Watergardens Shopping Centre had been exhausted, and the call from Mr Carl Williams to Mr Dale had not been located.⁴⁵⁰²
3345. On 26 May 2008, a Petra Taskforce Management Committee meeting took place.⁴⁵⁰³ The written update indicated that investigators had made further enquiries in relation to the 'Watergardens phone call'. One number called from a payphone had been identified as an associate of Messrs Tony Mokbel and Carl Williams, and another had been identified as being connected in a false name and address. That phone number had received a number of telephone calls from the Brunswick Police Station (where Mr Dale had previously worked) on 5 May 2004. Investigators were making further enquiries to determine if this 'safe phone' was being used by Mr Dale. Mr Cornelius noted, 'Looks like this is the call from Dale!'
3346. On 23 June 2008, a Petra Taskforce Management Committee meeting took place.⁴⁵⁰⁴ The written update, including Mr Cornelius' notes included that investigators had made further enquiries in relation to the 'Watergardens phone call' and had determined that the number was used by Mr Dale.
3347. On 18 August 2008, a Petra Taskforce Management Committee meeting took place.⁴⁵⁰⁵ The written update included that the 'safe phone' believed to be used by Mr Dale had significant contact with two mobile numbers prior to the murders and enquiries were being made to identify the users of these two numbers. The two phone numbers were connected in false names and addresses, which bore striking similarity to names and addresses used on phones linked to Mr Ahmed. It was noted that there was no contact with these numbers following the murders. Further enquiries were to be made to determine the user of these phones.
3348. Later in that report it was noted that investigators had spoken to a person who said they were aware that Mr Ahmed had a relationship with Ms Gobbo.

⁴⁵⁰¹ Exhibit RC0281 ICR3838 (089), 16 July 2007, 1019 VPL.2000.0003.2605

⁴⁵⁰² Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 17 September 2007, 321-323, VPL.0100.0013.0846 @.1166-.1168; Exhibit RC1770 Petra Taskforce Weekly Update, 17 September 2007, 327-329 VPL.0100.0001.5402 @.5728-.5730

⁴⁵⁰³ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, Folder 1, 26 May 2007, 264-267 VPL.0100.0013.0846 @.1109-1112; Exhibit RC1770 Petra Taskforce Weekly Update, 26 May 2008, 284-287 VPL.0100.0001.5402 @.5685-5688

⁴⁵⁰⁴ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 23 June 2008, 259-263, VPL.0100.0013.0846 @.1104-.1108; Exhibit RC1770 Petra Taskforce Weekly Update, 23 June 2008, 284-287, VPL.0100.0001.5402 @.5670-.5674

⁴⁵⁰⁵ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 18 August 2008 2008, 155-164, VPL.0100.0013.0846 @.1000.1009; Exhibit RC1770 Petra Taskforce Weekly Update, 18 August 2008, 211-220, VPL.0100.0001.5402 @.5613-.5621

3349. On 8 September 2008, a Petra Taskforce Management Committee meeting took place.⁴⁵⁰⁶ Investigators had determined that the two further numbers were linked to Mr Ahmed, as the call charge records showed that prior to the murders, those two numbers made regular contact with Mr Ahmed as well as the 'safe phone' believed to be used by Mr Dale.

Gobbo Linked to False Phones

3350. On 29 September 2008, a Petra Taskforce Management Committee meeting took place.⁴⁵⁰⁷ It was reported that the 'safe phone' used by Mr Dale was registered in the name Darren Johnson, and that Mr Dale's voice had been identified on telephone intercepts as having made calls from that phone to the mobile phones of Mr George Williams and Mrs Roberta Williams. In relation to the two further numbers having regular contact with Mr Dale it was determined that they were also having contact with Mr Ahmed, ex-member Stephen Campbell and a number of bars and restaurants in the Port Melbourne area.
3351. The author of the update, Mr O'Connell, stated his belief that at least one of these telephones was used by Ms Gobbo, also noting that the calls were bouncing off cell towers located near her work and home addresses. It was proposed that investigators speak with Ms Gobbo.

Gobbo Concern over Ahmed Co-Operation

3352. On 1 October 2008, Ms Gobbo told her handler that Mr Ahmed had told her that Petra Taskforce investigators had arranged to see him. During the conversation Ms Gobbo referred to the previous relationship she had with Mr Ryan, where she could feed information to investigators through him. She worried that now Mr Ryan had left, investigators might view her as a suspect. When queried how this might be, Ms Gobbo said that Mr Ahmed might say something which could cause this to occur. When asked what Mr Ahmed could say about her, Ms Gobbo responded that she did not know. She said her point was that she did not want the police to be suspicious over matters which she could easily explain. She said she would like to solve the Hodson murders and claim recognition for it, and she was in the best position to do that as she knew all the main suspects.⁴⁵⁰⁸
3353. It may be that Petra Taskforce investigators indicated to Mr Ahmed that they wished to speak to him about phones he used at the relevant time, and this information was conveyed to Ms Gobbo. Either way, it is apparent that Ms Gobbo saw the need to lay some groundwork lest Mr Ahmed reveal anything which might raise suspicions about her.

Petra Plans to Interview Gobbo

3354. That day, Detective Inspector Smith of the Petra Taskforce spoke with Mr Sandy White. They discussed the belief that Ms Gobbo had been in possession of false phone numbers shortly prior to the death of the

⁴⁵⁰⁶ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 8 September 2008, 130-138 VPL.0100.0013.0846 @.0975-.0983; Exhibit RC1770 Petra Taskforce Weekly Update, 8 September 2008, 202-210 VPL.0100.0001.5402 @.5603-.5611

⁴⁵⁰⁷ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 29 September 2008, 95-106, VPL.0100.0013.0846 @.0940-.0951

⁴⁵⁰⁸ Exhibit RC0281 ICR2958 (041), 2 October 2008, 654, VPL.2000.0003.1394

Hodsons. Mr Sandy White indicated that the SDU would check its intelligence holdings in relation to what phone numbers Ms Gobbo reported using during that period. There was discussion about a plan to interview Ms Gobbo, and who would be best to conduct the interview. It was agreed that it was probably best done by investigators and that an OPI hearing would be counterproductive.⁴⁵⁰⁹

3355. On 3 October 2008, there was further discussion between Messrs Sandy White and Smith as to the interview strategy for Ms Gobbo. Mr Sandy White noted that they discussed:

- the SDU cross checking details from suspicious phones with Ms Gobbo's known phones
- the SDU not alerting Ms Gobbo to the interview request by the Petra Taskforce before it occurred as it might pollute the interview
- that the interview should be timed for very shortly after the interview of Mr Ahmed, whereupon it was indicated Mr Ahmed had already been interviewed and would likely forewarn Ms Gobbo about any allegations, although allegations about the false phones had not yet been put to him
- the interview would not take place until Mr O'Connell returned from leave
- that Mr O'Connell had told him of Ms Gobbo's role as a human source with the SDU, and that Mr Overland had also mentioned that matter.⁴⁵¹⁰

3356. Ms Gobbo continued to involve herself in whatever aspects of the investigation she could. Following Mr Ahmed's interview by Petra investigators, Ms Gobbo reported on the nature of his questioning. She said he had been questioned about getting his facts wrong in relation to his alibi when he had been with Ms Gobbo for part of the night. She was concerned by this, and contacted Mr Solomon seeking clarification about Mr Ahmed's interview.⁴⁵¹¹

3357. On 5 October 2008, the Petra Taskforce Management Committee update indicated an intention by investigators to speak to Ms Gobbo in the following week.⁴⁵¹² Then on 13 October 2008 it was noted that investigators intended to interview Ms Gobbo in relation to the matter.⁴⁵¹³

3358. It is apparent that the interview of Ms Gobbo was delayed for some time pending the return of Mr O'Connell from a period of leave.⁴⁵¹⁴

⁴⁵⁰⁹ Exhibit RC0284 SML2958, 1 October 2008, 47, VPL.2000.0001.9236 @.9282; Exhibit RC0305 Mr Sandy White diary, 1 October 2008, 440-441, RCMP1.0092.0001.0001 @.0440

⁴⁵¹⁰ Exhibit RC0284 SML2958, 3 October 2008, 47, VPL.2000.0001.9236 @.9282; Exhibit RC0305 Mr Sandy White diary, 3 October 2008, 443, RCMP1.0092.0001.0001 @.0443

⁴⁵¹¹ Exhibit RC0284 SML2958, 4 October, 8 October 2008, 48, VPL.2000.0001.9283

⁴⁵¹² Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 5 October 2008, 83-94, VPL.0100.0013.0846 @.0928-.0939; Exhibit RC1369 Petra Taskforce Weekly Update, 5 October 2008, 190-201 VPL.0100.0001.5402 @.5591-.5602

⁴⁵¹³ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 13 October 2008, 62-73, VPL.0100.0013.0846 @.0907-.0918; Exhibit RC1770 Petra Taskforce Weekly Update, 13 October 2008, 174-186, VPL.0100.0001.5402 @.5575-.5587

⁴⁵¹⁴ RC0284, SML2958, 3 October 2008, 47, VPL.2000.0001.9236 @.9282

3359. In Mr Sandy White's 'Monthly Source Review' on 3 November 2008, he noted that Ms Gobbo had not yet been interviewed, and that the SDU had a strategy to assist. It was noted that Ms Gobbo may be of high value to the investigation given recent discoveries.⁴⁵¹⁵
3360. On 14 November 2008, Ms Gobbo reported to her handler, Mr Peter Smith, that her doctor had prescribed new antidepressant medication, which had side effects including lethargy and vagueness. Mr Peter Smith regarded the latter as an interesting side effect considering Ms Gobbo had a scheduled interview with the Petra Taskforce the following Monday, 17 November 2008.⁴⁵¹⁶

November 2008 – Issue related to Potential Compromise of [REDACTED]

3361. In June 2008, Ms Gobbo had reported to her handler, Mr Fox that she was representing clients, Alan Woodhead and Christopher Ross, who were charged with drug offences, and whom she believed were 'Coffin Cheaters who have been cooking amphet for years'.⁴⁵¹⁷
3362. On 11 November 2008, Mr Sandy White raised an issue with Mr Peter Smith, that a witness in the case whom the defence wanted to cross-examine [REDACTED]. There was concern that [REDACTED] would reveal [REDACTED] under cross-examination. The ICR went on, 'Consideration to alerting [Ms Gobbo] to this fact'. Enquiries were to be made by the informant for Woodhead, Mr Graham Evans, with the prosecutor about withdrawing the evidence of the witness prior to any decision.⁴⁵¹⁸
3363. On 21 November 2008, Mr Peter Smith recorded that the informant had spoken with OPP prosecuting counsel, told him about the witness [REDACTED], but who said he still required the witness. Mr Graham Evans again expressed concern about [REDACTED] cross-examination and suggested that Ms Gobbo be spoken to 're non cross-examining'.⁴⁵¹⁹
3364. On 24 November 2008, Mr Peter Smith spoke to Mr Sandy White about the matter. He was instructed not to inform Ms Gobbo about [REDACTED].⁴⁵²⁰
3365. On 25 November 2008, an ICR records that Mr Graham Evans had been spoken to and advised that the SDU could not assist in relation to [REDACTED].⁴⁵²¹
3366. On 28 November 2008, Ms Gobbo reported to Mr Peter Smith that [REDACTED] was likely to 'roll' and make a statement and had 'asked re target likely to be [REDACTED]'. Mr Peter Smith recorded in the ICR that Mr Graham Evans was advised of this matter and indicated he would not discuss it with

⁴⁵¹⁵ RC0284, SML2958, 3 November 2008, 53-54, VPL.2000.0001.9288-.9289

⁴⁵¹⁶ Exhibit RC0281 ICR2958 (046), 14 November 2008, 705, VPL.2000.0003.1445

⁴⁵¹⁷ Exhibit RC0281, ICR2958 (023), 12 June 2008, 423-424, VPL.2000.0003.1164-

VPL.2000.0003.1165. Note that the ICR entry states "Action: Not disseminated re ongoing management protocols of source".

⁴⁵¹⁸ Exhibit RC0281 ICR2958 (045), 14 November 2008, 701, VPL.2000.0003.1445

⁴⁵¹⁹ Exhibit RC0281 ICR2958 (046), 21 November 2008, 710, VPL.2000.0003.1450

⁴⁵²⁰ Exhibit RC0281 ICR2958 (047), 24 November 2008, 713, VPL.2000.0003.1453

⁴⁵²¹ Exhibit RC0281 ICR2958 (047), 25 November 2008, 714, VPL.2000.0003.1454

Detective Senior Constable [REDACTED], who was the informant in the matter of [REDACTED].⁴⁵²²

3367. It does not appear that [REDACTED] ever 'rolled' or made a statement in relation to the case.

17 November 2008 – Petra Interview Gobbo

3368. On 17 November 2008, Ms Gobbo advised the SDU she had attended the Petra Taskforce for an interview, and that they had requested a witness statement. Mr Sandy White later spoke with Mr O'Connell and received a briefing as to what occurred during the interview, including that:

- Ms Gobbo was well aware of a corrupt relationship between Carl Williams and Mr Dale
- she admitted she was a conduit between them prior to the murders
- she admitted the two 'bodgy' phones were most likely used by her, having been provided by Ahmed, although they had not asked why she was handling those phones
- she used the phones to communicate with Mr Dale who also used false phones
- her discussions with Mr Dale had been in relation to Operation Galop
- she had no knowledge of any plot to kill the Hodsons
- she did not dispute arranging the significant meeting on 6 May 2004 at the Watergardens Shopping Centre but said she could not recall it. When it was suggested she would have realised the significance after the murder she said not necessarily, due to her stroke
- Ms Gobbo had cried, started volunteering information, referring to having to 'defend these blokes day in day out, they are morally bankrupt', that she was acting in a legally correct manner and that her head was full of information, and asking of Mr Davey 'if that was you, what would you do?'
- she was prepared to make a statement but wanted to think about it
- the information from Ms Gobbo exceeded what investigators believed they would get.⁴⁵²³

3369. Mr Sandy White noted later that Ms Gobbo had also claimed to Petra Taskforce investigators that she had given all the phone numbers she had used to the SDU, which was false.⁴⁵²⁴

3370. That afternoon, a Petra Taskforce Management Committee meeting took place, attended by Messrs Overland, Cornelius, Moloney, Smith, Hollowood, Wilkins⁴⁵²⁵ and O'Connell. The update, prepared in advance, noted that Ms

⁴⁵²² Exhibit RC0281 ICR2958 (047), 28 November 2008, 719, VPL.2000.0003.1459

⁴⁵²³ RC0284, SML2958, 17 November 2008, 55, VPL.2000.0001.9290

⁴⁵²⁴ RC0284, SML2958, 12 December 2008, 60, VPL.2000.0001.9295

⁴⁵²⁵ Mr Peter Wilkins was Mr Overland's staff officer.

Gobbo was to be interviewed at 10:00am that morning.⁴⁵²⁶ Mr Cornelius made notes of the verbal update given to the meeting:

- *Re Gobbo*
- *re Watergardens phone call*
- *corrupt relationship between Williams and Dale she denies complicity*
- *setting up meetings*
- *covert mobiles were used by her -> phones from Ahmed*⁴⁵²⁷

3371. On 24 November 2008, Mr Smith enquired of the SDU whether they had met with Ms Gobbo since her interview, telling them that he had to report to Command. A Petra Taskforce Management Committee was scheduled that afternoon and he presumably anticipated reporting any further matters which had been ascertained by the SDU. This would indicate an appreciation by him that those in Command to whom he was reporting were aware of Ms Gobbo's role as a human source.⁴⁵²⁸
3372. This very point was made in the ICRs the following day which referred to those on the committee to whom Mr Smith reported, and 'therefore assume' they all knew of the identity of Ms Gobbo. Mr Sandy White also had the view that the Petra Taskforce Management Committee of Messrs Overland, Cornelius, Moloney and Ashton were all aware of Ms Gobbo's identity and role.⁴⁵²⁹
3373. The written update presented to the Petra Taskforce Management Committee on 24 November 2008,⁴⁵³⁰ which was contained within Mr Cornelius' Petra file, included a summary of the information from the interview with Ms Gobbo: that she had confirmed the relationship between Carl Williams and Mr Dale and that she had assisted in setting up the meeting between them. She maintained that she was not aware of either of their involvement in the murder of the Hodsons and indicated she would consider providing a statement to Petra investigators. The topic was the subject of some discussion as Mr Cornelius made a note that there was to be a further meeting with Ms Gobbo.
3374. Mr Moloney told the Commission that there was consideration being given to using Ms Gobbo as a witness from the time he joined the Petra Taskforce Management Committee, following his appointment as Assistant Commissioner of Crime on 1 November 2008. He said that it was understood by those at the meetings that the question of Ms Gobbo's use as a witness was complicated by the fact that she was a human source,

⁴⁵²⁶ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 17 November 2008, 23-26, VPL.0100.0013.0846 @.0868-.0881; Exhibit RC1369 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 17 November 2008, 113-128, VPL.0100.0001.5402 @.5514-.5529

⁴⁵²⁷ Exhibit RC1369 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 17 November 2008, 113-128, VPL.0100.0001.5402 @.5514-.5529

⁴⁵²⁸ Exhibit RC0281 ICR2958 (047), 25 November 2008, 714, VPL.2000.0003.1454

⁴⁵²⁹ Exhibit RC0284, SML2958, 25 November 2008, 57, VPL.2000.0001.9236 @.9292

⁴⁵³⁰ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 24 November 2008, 14-22, VPL.0100.0013.0846 @.0859-.0867; Exhibit RC1000 Petra Taskforce Weekly Update, 24 November 2008, 104-112, VPL.0100.0001.5402 @.5505-.5513

because of the risk of her source history being exposed during subsequent court processes.⁴⁵³¹

3375. Mr Hollowood was aware that the Petra Taskforce Steering Committee was interested in obtaining a statement from Ms Gobbo at this time.⁴⁵³² He also placed the timing of his becoming aware that Ms Gobbo was a human source as being in the course of his attendance at a Petra Taskforce Management Committee meeting around the time that it was proposed she would be a witness. Based upon his review of Petra Taskforce weekly update documents, he believed this occurred in late 2008.⁴⁵³³ His understanding was that the Deputy and Assistant Commissioners, who were Messrs Overland, Cornelius and Moloney, as well as Mr Ashton, were all aware of Ms Gobbo's status as a human source at that time.⁴⁵³⁴
3376. Mr Hollowood said he was surprised to learn that Ms Gobbo was a human source because of her profession as a lawyer. He expressed this surprise and was given general assurances that legal advice had been taken at the time which indicated it could be done. Mr Hollowood said he accepted those assurances and did not enquire further.⁴⁵³⁵ Mr Hollowood could not recall who it was that provided those assurances,⁴⁵³⁶ although it would seem that from the attendees of those meetings around the time, Messrs Overland and Moloney were the two likely candidates.

Late November 2008 – Petra Want to Speak Further to Gobbo

3377. On 25 November 2008, Mr O'Connell contacted the SDU handler and indicated that investigators had not asked Ms Gobbo why she had 'bodgy' phones supplied by Mr Ahmed, and he wanted to address this matter by speaking further with Ms Gobbo.⁴⁵³⁷
3378. On 26 November 2008, Mr Sandy White was informed by the handler that Petra wished to further interview Ms Gobbo, and that Ms Gobbo needed to clarify her stance with Petra in relation to whether she would make a statement or not. The handler advised Mr O'Connell that the SDU planned to tell Ms Gobbo about these matters.⁴⁵³⁸ Later that evening the handler had a discussion with Ms Gobbo who indicated she would not make a statement and did not want to be a witness.⁴⁵³⁹
3379. On 27 November 2008, the handler advised Mr O'Connell that Ms Gobbo was expecting their call.⁴⁵⁴⁰ The next day Ms Gobbo reported distress after receiving a call from Mr Solomon who indicated that Mr O'Connell wanted to

⁴⁵³¹ Transcript of Mr Dannye Moloney, 20 February 2020, 14594-14595, RC_MPI_20Feb20_provisional

⁴⁵³² Transcript of Superintendent Paul Hollowood, 13857, RC_MPI_12Feb20_provisional

⁴⁵³³ Exhibit RC1186 Statement of Superintendent Paul Hollowood, 19 November 2019, 4-5 [25, 28], VPL.0014.0093.0004-5

⁴⁵³⁴ Transcript of Superintendent Paul Hollowood, 12 February, 13856, TRN.2020.02.12.01.P

⁴⁵³⁵ Exhibit RC1186 Statement of Superintendent Paul Hollowood, 19 November 2019, 4-5 [25]

VPL.0014.0093.0001 @.0004-.0005; Transcript of Superintendent Paul Hollowood, 13854

RC_MPI_12Feb20_provisional

⁴⁵³⁶ Exhibit RC1186 Statement of Superintendent Paul Hollowood, 19 November 2019, 4-5 [25],

VPL.0014.0093.0001 @.0004-.0005

⁴⁵³⁷ Exhibit RC0281 ICR2958 (047), 25 November 2008, 714, VPL.2000.0003.1454

⁴⁵³⁸ Exhibit RC0281 ICR2958 (047), 26 November 2008, 715, VPL.2000.0003.1455; Exhibit RC0284,

SML2958, 26 November 2008, 57, VPL.2000.0001.9236 @.9292

⁴⁵³⁹ Exhibit RC0281 ICR2958 (047), 26 November 2008, 716, VPL.2000.0003.1456

⁴⁵⁴⁰ Exhibit RC0281 ICR2958 (047), 27 November 2008, 717, VPL.2000.0003.1457

speaking further with her, but not indicating what she was to be spoken to about.⁴⁵⁴¹

3380. On 29 November 2008, Ms Gobbo reported that as Mr Solomon was going overseas, Mr O'Connell wanted to meet her. It was noted that Ms Gobbo had previously been told that Mr O'Connell knew something of Ms Gobbo's status and had signed a warrant in relation to a search of her chambers relating to Messrs Cooper and Thomas, which had occurred in late 2006.⁴⁵⁴²
3381. Mr Solomon enquired further as to whether Ms Gobbo had any contact with Mr Dale. She indicated she had some text messages to which she had not responded.⁴⁵⁴³

30 November 2008 – Dale Wants to Meet, Petra Wants to Record

3382. On 30 November 2008, Ms Gobbo received a text message from Mr Dale advising he was in Melbourne and wanted to meet. Ms Gobbo indicated she couldn't. He then indicated he would be returning the following weekend. Ms Gobbo spoke to her SDU handler, Mr Peter Smith, about advising Mr Solomon as he had requested notification of any contact with Mr Dale.⁴⁵⁴⁴
3383. Upon contacting Mr O'Connell, Mr Peter Smith discovered that Ms Gobbo had already advised the Petra Taskforce. Mr O'Connell told Mr Peter Smith that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. The Petra Taskforce believed [REDACTED]. Plans were made to try and speak with Ms Gobbo before she had any contact with Mr Dale.⁴⁵⁴⁵
3384. The handler then briefed Mr Sandy White and discussed the 'value/possibility' of Ms Gobbo recording a conversation with Mr Dale. They decided it was too risky and Ms Gobbo had indicated she did not want to be a witness.⁴⁵⁴⁶
3385. On 1 December 2008, the Petra Taskforce Management Committee update⁴⁵⁴⁷ reported that Mr Solomon had spoken to Ms Gobbo on 28 November 2008, and that she was to ring Mr Davey that day to make a further appointment.
3386. That day, Ms Gobbo indicated reported contact with Mr Davey. Ms Gobbo and her handler discussed the possibility that she would be asked to tape the conversation with Mr Dale, and that she would tell them that she would

⁴⁵⁴¹ Exhibit RC0281 ICR2958 (047), 28 November 2008, 720, VPL.2000.0003.1460

⁴⁵⁴² Exhibit RC0281 ICR2958 (047), 29 November 2008, 721, VPL.2000.0003.1461; Exhibit RC1305

Statement of Mr Shane O'Connell, 5 December 3 [20] VPL.0014.0115.0001 @.0003

⁴⁵⁴³ Exhibit RC0281 ICR2958 (047), 29 November 2008, 721, VPL.2000.0003.1461

⁴⁵⁴⁴ Exhibit RC0281 ICR2958 (047), 30 November 2008, 722, VPL.2000.0003.1462

⁴⁵⁴⁵ Exhibit RC0281 ICR2958 (047), 30 November 2008, 722, VPL.2000.0003.1462

⁴⁵⁴⁶ Exhibit RC0281 ICR2958 (047), 30 November 2008, 722, VPL.2000.0003.1462; Exhibit RC0284, SML2958, 30 November 2008, 57, VPL.2000.0001.9236 @.9292

⁴⁵⁴⁷ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 1, 1 December 2008, 5-13, VPL.0100.0013.0846 @.0850-.0858

not be a witness in any circumstances.⁴⁵⁴⁸ An appointment was subsequently arranged with Petra for the morning of 3 December 2008.⁴⁵⁴⁹

3387. On 3 December 2008, Ms Gobbo reported on her meeting with Messrs O'Connell and Davey, including that:⁴⁵⁵⁰

- they told her that what she had told them thus far was crucial and extremely important, in that:
 - she was credible compared to Carl Williams
 - there was an evidentiary gap, and she could confirm a corrupt relationship between Carl Williams and Mr Dale
- they would do everything in their power to use her as a witness
- she raised concerns about being a witness, including not being able to work again, not living in Victoria, receiving death threats, and that she therefore could not give evidence
- they told her there was nothing that Mr Overland would not do to help her in relation to this matter
- she was told if she did not want to be a witness, she would be forced to give evidence at some kind of hearing, which caused her to cry
- they discussed her recording the conversation with Mr Dale the following weekend, indicating they did not want to get a warrant
- she had raised the prospect that Mr Dale might consider any conversation privileged, and they said they would cross that bridge when it came to it; they wanted the evidence first and would consider what happened after that.

3 December 2008 – SDU Concerned Where This is Heading

3388. Later, on the afternoon of 3 December 2008, Messrs Sandy White, Peter Smith and Green spoke with Mr O'Connell in relation to the intentions of Petra Taskforce in respect of Ms Gobbo. Mr O'Connell confirmed that the Petra Taskforce wanted to use Ms Gobbo as a witness to corroborate Carl Williams assertions about his relationship with Mr Dale, and they also wanted Ms Gobbo to record her conversation with Mr Dale. The SDU raised several issues with this course, including that any exposure of Ms Gobbo's 'previous assistance may be cause to bring scrutiny on the department'. It was said that there was a need to balance her value as a witness against this risk of exposure. Mr O'Connell indicated that this was a decision that should be made by a person with higher authority with knowledge of all the facts.⁴⁵⁵¹

3389. Following this, Messrs Sandy White and Peter Smith discussed matters further and determined that Ms Gobbo should be asked about the likelihood of Mr Dale confessing, to ascertain the likelihood of it being useful as evidence as opposed to intelligence. They discussed a plan whereby the

⁴⁵⁴⁸ Exhibit RC0281 ICR2958 (047), 1 December 2008, 746, VPL.2000.0003.1486

⁴⁵⁴⁹ Exhibit RC0281 ICR2958 (047), 2 December 2008, 746, VPL.2000.0003.1486

⁴⁵⁵⁰ Exhibit RC0281 ICR2958 (047), 3 December 2008, 749, VPL.2000.0003.1489

⁴⁵⁵¹ Exhibit RC0281 ICR2958 (047), 3 December 2008, 749, VPL.2000.0003.1489

SDU, as opposed to Petra, would handle the recording of any conversation with Mr Dale, and then disseminate the information to the Petra Taskforce.⁴⁵⁵²

3390. Ms Gobbo, when she was next spoken to, said that there was no prospect of Mr Dale confessing to her; that he had always maintained that he had done nothing. Mr Peter Smith told her that the Petra Taskforce were of the view that his attitude may have changed, which Ms Gobbo doubted. He spoke to her about the SDU plan to handle the recording of the conversation and dissemination of information. Ms Gobbo agreed to this course of action. Ms Gobbo added that if Mr Dale was arrested, she believed she would be the first person he called for advice.⁴⁵⁵³

3 December 2008 – Issue Elevated to Mr Overland

3391. Mr Overland's evidence was that he or the Petra Taskforce Management Committee, more probably himself as the Deputy Commissioner, was the relevant 'higher authority'. He recalled there being discussion within the Petra Taskforce Management Committee as to Ms Gobbo being used as a witness but accepted that at the end of the day it was his call.⁴⁵⁵⁴ Certainly around this time Mr Overland became involved in discussions related to Ms Gobbo's future use.

3392. Mr Smith, in his evidence, agreed that it was likely that Mr O'Connell would have gone to him as his superior officer, to inform him that the SDU were raising issues about the use of Ms Gobbo, although said he had no recollection of that having occurred. He added that around that time he was involved in the process around obtaining a statement from Carl Williams which took up the vast majority of his time and focus. He said that either he or Mr O'Connell may have raised the matter with Mr Overland.⁴⁵⁵⁵

3393. In early December 2008, Messrs Biggin, Sandy White and others from the SDU were at a [REDACTED] location participating in a training course. Mr Overland was to attend to close the course on the evening of 4 December 2008 and then attend its formal dinner.⁴⁵⁵⁶

3394. On the night of 3 December 2008, Mr Peter Smith spoke with Mr Sandy White in advance of a meeting that had been planned with Mr Overland the following day. A point form list of criteria was drawn up relevant to the SDU plan which had been discussed with Ms Gobbo. It included that:⁴⁵⁵⁷

- Ms Gobbo would not become a witness
- the Petra Taskforce would not ask Ms Gobbo to make or sign a statement at any stage
- the SDU handle Ms Gobbo in relation to all meetings with Mr Dale

⁴⁵⁵² Exhibit RC0281 ICR2958 (047), 3 December 2008, 750, VPL.2000.0003.1490

⁴⁵⁵³ Exhibit RC0281 ICR2958 (047), 3 December 2008, 751, VPL.2000.0003.1491

⁴⁵⁵⁴ Transcript of Mr Simon Overland, 19 December 2019, 11819 [38] – 11820 [23], TRN.2019.12.19.01.P

⁴⁵⁵⁵ Transcript of Mr Steven Smith, 12 February 2020, 13928 [24] – 13929 [42], TRN.2020.02.12.01.P

⁴⁵⁵⁶ Transcript of Mr Sandy White, 19 August 2019, 4861 [22-26], RC_MPI_19Aug19_provisional;

Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7628 [21-28], TRN.2019.10.10.01.P

⁴⁵⁵⁷ Exhibit RC0281 ICR2958 (047), 3 December 2008, 751 VPL.2000.0003.1491

- the SDU would facilitate any taping of such meetings and disseminate intelligence to Mr O'Connell, noting the extreme unlikelihood that Mr Dale would change from his position that he had nothing to do with the Hodson murders
- the Petra Taskforce agree not to call Ms Gobbo to any other type of hearing in relation to Mr Dale.

3395. On the night of 4 December 2008, having spoken to Mr Overland, Mr Sandy White informed Mr Peter Smith that Mr Overland wanted Ms Gobbo as a witness. Mr Sandy White said that the matter was to be further discussed with Mr Biggin the following morning.⁴⁵⁵⁸

3396. Mr Peter Smith then spoke with Ms Gobbo and told her there had been no news in relation to the 'Dale issue', and to delay contacting Mr Dale about meeting this weekend.⁴⁵⁵⁹

5 December 2008 – SDU Outline Risks to Mr Overland

3397. On the morning of 5 December 2008, a breakfast meeting took place involving Messrs Overland, Biggin, Sandy White, Smith and Black. Mr Overland joined the meeting. According to Mr Black, Mr Overland had requested the breakfast meeting to discuss the strategic planning for Ms Gobbo. His diary recorded the purpose of the meeting as being for strategic planning in relation to Ms Gobbo's future and the implications of a source assisting Petra, possibly as a witness.⁴⁵⁶⁰ Mr Biggin referred to the purpose of the meeting in his diary as 'options, tactics & risk assessment'.⁴⁵⁶¹

3398. In advance of the meeting, Mr Sandy White was briefed in relation to the risks involved in Ms Gobbo becoming a witness. Mr Peter Smith listed the risks in his diary, which he replicated in the ICRs. They included:⁴⁵⁶²

- *Risk of [Ms Gobbo's] exposure as a Source*
- *Risk to organisation if long term Source role is exposed = perception of Source passing on privileged information and Police using same*
- *Risk of Royal Commission into Source Handling by the SDU as a result of above*
- *Threat to [Ms Gobbo's] personal safety if gives evidence*
- ...
- *If target Dale is charged will call [Ms Gobbo] as legal counsel in the first instance*

⁴⁵⁵⁸ Exhibit RC0281 ICR2958 (048), 4 December 2008, 754, VPL.2000.0003.1494

⁴⁵⁵⁹ Exhibit RC0281 ICR2958 (048), 3 December 2008, 755, VPL.2000.0003.1495

⁴⁵⁶⁰ Exhibit RC0622 Statement of Mr Black, 5 June 2019, 41-45 [112] COM.0025.0005.0001 @.0041-.0045; Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7628 [21-38], 7631 [20-25], TRN.2019.10.10.01.P; Transcript of Mr Simon Overland, 19 December 11825 [2-5], TRN.2019.12.19.01.P

⁴⁵⁶¹ Exhibit RC0578 Mr Anthony (Tony) Biggin, 5 December, 691, RCMPI.0075.0001.0001 @.0691; Exhibit RC0578 Mr Anthony (Tony) Biggin diary summary, 5 December 2008, 22, VPL.0005.0154.0001 @.0022

⁴⁵⁶² Transcript of Mr Sandy White, 19 August 2019, 4861 [28-37], RC_MPI_19Aug19_provisional; Exhibit RC0281 ICR2958, 5 December, 756, VPL.2000.0003.1496

- *Target Dale will claim that all previous conversations with [Ms Gobbo] were privileged*
- ...
- *Jeopardise future prosecutions if [Ms Gobbo's] role divulged (mostly Mokbel and spin offs)*
- *Leave previous convictions open to claims of being unsafe [because] of [Ms Gobbo's] involvement/privilege*
- *Duty of care to [Ms Gobbo's] mental [and] physical health for proven assistance of long term – has touched on suicide on several occasions.*

3399. Mr Sandy White accepted that some of the risks listed were based on knowledge accumulated by the members of the SDU over a significant period of time. In this regard, during his evidence he was referred to the early risk assessment which had stated that because of Ms Gobbo's occupation and particular position, if she was compromised, her handling would come under extreme scrutiny which could cause embarrassment and criticism of the police. It was suggested that the realisation of a potential inquiry and exposure and embarrassment of the SDU was something known from the outset. Mr Sandy White accepted that proposition.⁴⁵⁶³
3400. Mr Sandy White referred to the above list a number of times in his evidence as being akin to an agenda as to matters to be discussed at the meeting.⁴⁵⁶⁴ He presumed that all the risks listed in the briefing were raised with Mr Overland during the meeting, and agreed that he probably took some strong views into the meeting.⁴⁵⁶⁵ Mr Sandy White recorded Mr Overland's presence in the SML, and that he made clear that Ms Gobbo's value as a witness was more important than the 'perceived issues'. In this regard, in his evidence to the Commission Mr Sandy White recalled Mr Overland indicating that whilst he understood the SDU position, Ms Gobbo was potentially useful in the very serious corruption investigation of Mr Dale, and that 'corruption trumps everything'. Mr Overland had said that public confidence in the police force was more important than the compromise issues surrounding Ms Gobbo, apparently believing suitable security arrangements could be made to protect Ms Gobbo.⁴⁵⁶⁶
3401. Mr Peter Smith recorded that Mr Overland had conveyed to Mr Sandy White the previous night that he wanted Ms Gobbo as a witness, and that he was aware of the consequences. Mr Peter Smith expressed his disbelief that Mr Overland fully appreciated the consequences of such a course.⁴⁵⁶⁷
3402. During Mr Peter Smith's evidence to the Commission he was taken to a later analysis conducted by Mr Black, which became known as the SWOT analysis. This analysis referred to convictions and prosecutions being placed in jeopardy as a consequence of Ms Gobbo becoming a witness as

⁴⁵⁶³ Transcript of Mr Sandy White, 19 August 2019, 4865 [23] – 4866 [13],

RC_MPI_19Aug19_provisional

⁴⁵⁶⁴ Transcript of Mr Sandy White, 19 August 2019, 4863 [40-43], 4865 [12-13], 4867 [26],

RC_MPI_19Aug19_provisional

⁴⁵⁶⁵ Transcript of Mr Sandy White, 19 August 2019, 4862 [28-37], 4860 [47] – 4861 [1],

RC_MPI_19Aug19_provisional

⁴⁵⁶⁶ Exhibit RC0275c Statement of Mr Sandy White, 22 May 2019, 30, COM.0019.0002.0001 @.0030;

Exhibit RC0284 SML2958, 5 December 2008, 58, VPL.2000.0001.9236 @.9293

⁴⁵⁶⁷ Exhibit RC0281 ICR2958 (048), 5 December 2008, 756, VPL.2000.0003.1496

this would lead to her exposure as a human source. It was put to Mr Peter Smith that this realisation was not a new one by the SDU, and that given he had attended regular detailed meetings where issues pertaining to human sources were discussed, he must have been aware that there was a real issue that convictions and prosecutions would be put in jeopardy as identified in the SWOT analysis. Mr Peter Smith responded that he didn't recall having that explained to him at the time, and that if others could 'say it happened, so be it. I can't recall it.' In light of Mr Peter Smith's own entry in the ICR listing this very concern, his response to the Commission was disingenuous.⁴⁵⁶⁸

3403. Mr Black stated that Mr Overland said words to the effect that he had listened to the concerns of the SDU but gave a clear direction that Ms Gobbo would be transitioning to a witness for the Petra Taskforce.
3404. Mr Overland was adamant that he had not formed a view that Ms Gobbo was wanted as a witness until after she had recorded the conversation with Mr Dale, which he described as 'the clincher' when the words of Mr Dale were said to provide credit to the assertions that had been made by Carl Williams.⁴⁵⁶⁹ Whilst Mr Overland might have been confirmed in his view following the recording made by Ms Gobbo, on the basis of other contemporaneous records, it is clear that he had earlier directed that she would transition to a witness.
3405. Mr Overland did not think that there would have been a detailed conversation at the breakfast meeting as the location would not be considered appropriate. He did however accept that he would have wanted to understand the views of those with the expertise in human source handling in respect of the risks in exposing Ms Gobbo,⁴⁵⁷⁰ and he did recall the SDU having very strong views about the matter.⁴⁵⁷¹ In any case, it is apparent that such discussions did occur at that meeting, as strategies for dealing with such risks were developed, consistent with evidence of Messrs Black and Biggin as to the purpose of the meeting.

5 December 2008 – The 'Barrier/Break' Strategy

3406. Following the instruction that Ms Gobbo would become a witness, it was determined that any deployment of Ms Gobbo should be handled by the Petra Taskforce. This was a strategy adopted in order to attempt to avoid the discovery of Ms Gobbo's role as a human source with the SDU in any criminal proceeding brought against Mr Dale. It was foreseen that should Ms Gobbo become a witness any recording made by her may become evidence in the case. If it was known that the SDU deployed Ms Gobbo and not the Petra Taskforce, there would likely be questions raised as to Ms Gobbo's relationship with the SDU.
3407. So much is clear from contemporaneous records made at the time:
- Mr Sandy White in the SML said, 'Decision that preferable that Petra deploy [Ms Gobbo] in case deployment becomes evidentiary – need a

⁴⁵⁶⁸ Transcript of Mr Peter Smith, 11 September 2019, 6164 [11-42], RC_MPI_11Sep19_provisional

⁴⁵⁶⁹ Transcript of Mr Simon Overland, 19 December 2019, 11820 [25] –11823 [7], TRN.2019.12.19.01.P

⁴⁵⁷⁰ Transcript of Mr Simon Overland, 19 December 2019, 11825 [7-31], TRN.2019.12.19.01.P

⁴⁵⁷¹ Transcript of Mr Simon Overland, 19 December 2019, 11825 [16-17], TRN.2019.12.19.01.P

barrier/break [between] SDU management and witness management⁴⁵⁷²

- Mr Sandy White in his diary said 'Agree deployment of [Ms Gobbo] to be done by Petra to isolate re Dale from SDU in order to protect historical relationship with SDU and discovery should [Ms Gobbo] become witness against Dale'⁴⁵⁷³
- Mr Peter Smith in the ICR said, 'Decide that preferable for Op Petra deploy [Ms Gobbo] to minimise risk of revealing [human source] role'.⁴⁵⁷⁴

3408. Mr Overland stated he recalled discussions to the effect of Mr Sandy White's entry in the SML as to the need for a 'barrier/break', although it was his belief that such discussions were in the hypothetical as he maintained that no determination had been made at that time as to Ms Gobbo becoming a witness, and he was not aware that there was a proposal to deploy Ms Gobbo to record Mr Dale.⁴⁵⁷⁵

3409. Mr O'Connell was advised of the result of the meeting and expressed satisfaction, pending Ms Gobbo's reaction.⁴⁵⁷⁶

3410. Mr Moloney said he did not recall being aware of discussions as to Petra Taskforce investigators deploying Ms Gobbo to record her conversation with Mr Dale to avoid later disclosure of her relationship with the SDU, however said he had no problem with it, as it was done to protect Ms Gobbo and the information that she had supplied.⁴⁵⁷⁷

December 2008 – Ms Gobbo's Consideration of Becoming a Witness

3411. That afternoon Mr Peter Smith spoke with Ms Gobbo and advised that she was to deal with Petra Taskforce investigators who still wanted to take a statement from her and would want her to tape record her meeting with Mr Dale. Ms Gobbo's initial reaction was, 'I'll kill myself now'. During the conversation that followed Ms Gobbo outlined her reasons for not wanting to be a witness. These included:

- she did not want her role as a human source to come out during cross-examination
- issues as to her personal safety
- unsafe or unsound convictions because of her involvement with witnesses and persons who had been charged.⁴⁵⁷⁸

3412. Mr Peter Smith told her that her assistance would be voluntary, and she did not have to assist the Petra Taskforce. Ms Gobbo indicated that she would not give evidence at any compulsory hearing and would rather risk gaol. He

⁴⁵⁷² Exhibit RC0284 SML2958, 5 December 2008, 58, VPL.2000.0001.9236 @.9293

⁴⁵⁷³ Exhibit RC0305 Mr Sandy White diary, 5 December 2008, 502, RCMP1.0092.0001.0001 @.0502

⁴⁵⁷⁴ Exhibit RC0281 ICR2958 (048), 5 December 2008, 757, VPL.2000.0003.1497

⁴⁵⁷⁵ Transcript of Mr Simon Overland, 19 December 2019, 11826-11827, TRN.2019.12.19.01.P

⁴⁵⁷⁶ Exhibit RC0281 ICR2958 (048), 5 December 2008, 757, VPL.2000.0003.1497

⁴⁵⁷⁷ Transcript of Mr Danyye Moloney, 20 February 2020, 14596, RC_MPL_20Feb20_provisional

⁴⁵⁷⁸ Exhibit RC0281 ICR2958 (048), 5 December 2008, 757, VPL.2000.0003.1497

noted that whilst Ms Gobbo was very upset at the prospect of having to give evidence she bizarrely still wanted to assist.⁴⁵⁷⁹

3413. Following this, there were a number of conversations as between Ms Gobbo and the SDU, the SDU and Petra Taskforce investigators and Petra Taskforce investigators and Ms Gobbo. Ms Gobbo wanted assurances as to what her future held, she was told that Mr Sandy White had been told she would not be called to a compulsory hearing even if she did not give evidence, and there were entreaties from the Petra Taskforce to Ms Gobbo about meeting to discuss her recording the conversation with Mr Dale.⁴⁵⁸⁰
3414. On 6 December 2008, Petra Taskforce investigators met with Ms Gobbo in relation to her taping the conversation with Mr Dale. Ms Gobbo reported telling Mr O'Connell that she did not want to be a witness, and that she would be recording the conversation the following day. She was told not to talk about specifics of 'body phones' with Mr Dale.⁴⁵⁸¹

7 December 2008 – Gobbo Records Dale

3415. On 7 December 2008, Ms Gobbo met and recorded her conversation with Mr Dale.
3416. Her report of the conversations to the SDU upon finishing the meeting was that there had been no admissions, but there was some material of interest. Amongst the matters she reported being discussed were:
- Mr Dale's instructing solicitor, Mr Tony Hargreaves, had advised him not to meet with Ms Gobbo
 - Mr Dale told Ms Gobbo that if anybody asked, their conversation was privileged
 - Mr Dale initially asked her to go for a walk, but she indicated it would look ridiculous and more suspicious
 - Mr Dale spoke to her [REDACTED] including his [REDACTED] and [REDACTED]
 - he had declared certain contact with Ms Gobbo as per the telephone intercept and advised her to say the same thing.
3417. Ms Gobbo believed that the Petra Taskforce would be excited about what had been said. They told her that they would contact her in the next few days. Ms Gobbo reported that she had told them again that she would assist, but not be a witness.⁴⁵⁸²
3418. On 8 December 2008, the Petra Taskforce Management Committee update,⁴⁵⁸³ which was contained within Mr Cornelius' Petra file, reported to the Management Committee that Ms Gobbo spoke to investigators on 7

⁴⁵⁷⁹ Exhibit RC0281 ICR2958 (048), 5 December 2008, 757, VPL.2000.0003.1497

⁴⁵⁸⁰ Exhibit RC0281 ICR2958 (048), 5 December 2008, 757, VPL.2000.0003.1497-8

⁴⁵⁸¹ Exhibit RC0281 ICR2958 (048), 6 December 2008, 759, VPL.2000.0003.1499; Exhibit RC0284 SML2958, 6 December, 58, VPL.2000.0001.9236 @.9293

⁴⁵⁸² Exhibit RC0281 ICR2958 (048), 7 December 2008, 759, VPL.2000.0003.1499

⁴⁵⁸³ Exhibit RC0884 Petra Taskforce Weekly Update, 8 December 2008, 94-103, VPL.0100.0001.5402 @.5494-.5504

December 2008. She confirmed she had recently spoken with Mr Dale who told her about attending a coercive hearing, they had a general discussion about the hearing including about Messrs Collins and Williams, and that Mr Dale was speculating about evidence against him.

3419. Strangely, the update did not refer to the fact that Ms Gobbo had recorded the conversation with Mr Dale. Perhaps this was to limit any written record of the fact of the recording having occurred.

3420. Following the meeting, Mr Hollowood met with Mr Moloney to discuss his role and responsibilities. He said he raised with Mr Moloney his increasing awareness and concern that he was not being made aware of a lot of information in respect of the investigation.⁴⁵⁸⁴

9 December 2008 – The Dale Recording is Deemed Significant

3421. On 9 December 2008, Ms Gobbo was advised by Petra Taskforce investigators that they wished to speak with her about something significant, and a meeting was arranged. Mr Peter Smith then spoke to Mr O'Connell and was told that Mr Dale had made comments as to the accuracy of matters which had been put to him from Carl Williams' statement. Mr O'Connell told Mr Peter Smith that they wanted Ms Gobbo as a witness and in normal circumstances they would 'turn the screws'. Later in the day Ms Gobbo spoke to Mr Peter Smith, again saying that she would not be a witness.⁴⁵⁸⁵ The following day Mr Peter Smith advised Ms Gobbo that Petra definitely wanted her to make a statement and would press the point. They had a discussion about previous concerns raised by Ms Gobbo about such a course.⁴⁵⁸⁶

3422. On 11 December 2008, Ms Gobbo met with Petra Taskforce investigators for over two hours. She was told Mr Dale could not be charged or convicted without her evidence, and that part of what Mr Dale said had been crucial, although they did not say what. During the conversation:

- Ms Gobbo asked if they could control matters put to her in cross-examination and was told no, but if she didn't make a statement that others may cause her personal embarrassment by what they say, presumably a reference to the prospect that others might infer she was knowingly involved in the arrangements
- during the conversation Petra investigators told her that she had met with Carl Williams on 5 May 2004, and then Paul Dale met with Carl Williams on 6 May 2004
- Ms Gobbo spoke about not wanting to go into witness protection for various reasons, and was told in response that 'there is nothing that Simon Overland would not do for [her]', and that Overland says 'this is the most significant prosecution for [Victoria Police]'
- Ms Gobbo asked why they had trusted her with so much information, and was told in response that they had done a risk assessment about

⁴⁵⁸⁴ Transcript of Superintendent Paul Hollowood, 12 February 2020, 13861, 13869, TRN.2020.02.12.01.P; Exhibit RC1188 Superintendent Paul Hollowood diary, 8 December 2008, 145, RCMPI.0126.0001.0008 @.0145

⁴⁵⁸⁵ Exhibit RC0281 ICR2958 (048), 9 December 2008, 763-4, VPL.2000.0003.1503-.1504

⁴⁵⁸⁶ Exhibit RC0281 ICR2958 (048), 10 December 2008, 765, VPL.2000.0003.1505

what Ms Gobbo knew and what she had previously done with other witnesses

- the time frame for charging Mr Dale was not known, but there was no pressure, it could be 3, 6 months or more.⁴⁵⁸⁷
3423. During his discussion with Ms Gobbo, Mr Peter Smith recorded, following a statement in capitals, 'THIS IS THE BIZARRE BIT:', that Ms Gobbo said that if Mr Dale was charged, then she wanted to be involved as a witness, as she did not want the defence to be able to allege that she was somehow involved in the murders. She said this scenario would also adversely affect her life. When Mr Peter Smith pointed out the incongruity, Ms Gobbo responded that Mr Dale would likely want her as a witness in any case.⁴⁵⁸⁸
3424. Mr Peter Smith later spoke with Mr O'Connell and confirmed that the meeting occurred in the manner described by Ms Gobbo. It was arranged that Messrs O'Connell, Sandy White and Smith would meet the following day.⁴⁵⁸⁹
3425. On 12 December 2008, Ms Gobbo had a conversation with Mr Peter Smith about various issues related to the Petra Taskforce investigation and the stress she was feeling. She made references to suicide.⁴⁵⁹⁰
3426. That day, Mr Sandy White in his Monthly Source Review noted that the likelihood of Ms Gobbo being compromised remained high and would most likely occur as a consequence of court disclosures arising from the ongoing prosecutions of the Mokbel brothers. The recommendation in relation to Ms Gobbo's ongoing status involved the SDU working to end the relationship with Ms Gobbo with a contact option for problems.⁴⁵⁹¹
3427. During the meeting between Messrs O'Connell, Sandy White and Smith there was further discussion about the Petra Taskforce wanting a statement from Ms Gobbo, who told investigators she would provide an answer by the end of the week. Mr Sandy White advised that if the answer was negative, the SDU might be able to assist with influence at an appropriate time.⁴⁵⁹²
3428. Mr O'Connell indicated that investigators had not asked Ms Gobbo why she had the 'bodgy phones' supplied by Mr Ahmed, and they had not asked her whether she had a sexual relationship with Mr Dale. Mr Sandy White advised that the SDU intended to meet with Ms Gobbo the following week and discuss such matters.⁴⁵⁹³
3429. On 13 December 2008, Ms Gobbo was told that the SDU wanted to meet with her the following week. Mr Peter Smith told her that the Petra Taskforce still wanted a statement and would not let the matter drop. He said that there were matters which Mr Sandy White, who'd spoken to a high-

⁴⁵⁸⁷ Exhibit RC0281 ICR2958 (048), 11 December 2008, 765-6, VPL.2000.0003.1505-.1506; Exhibit RC0284 SML2958, 11 December 2008, 59, VPL.2000.0001.9236 @.9293

⁴⁵⁸⁸ Exhibit RC0281 ICR2958 (048), 11 December 2008, 766, VPL.2000.0003.1506

⁴⁵⁸⁹ Exhibit RC0281 ICR2958 (048), 11 December 2008, 766 VPL.2000.0003.1506

⁴⁵⁹⁰ Exhibit RC0281 ICR2958 (048), 12 December 2008, 768, VPL.2000.0003.1508

⁴⁵⁹¹ Exhibit RC0284, SML2958, 12 December 2008, 60, VPL.2000.0001.9236 @.9295

⁴⁵⁹² Exhibit RC0305, Mr Sandy White diary, 12 December 2008, 521, RCMPI.0092.0001.0001 @.0521

⁴⁵⁹³ Exhibit RC0281 ICR2958 (048), 12 December 2008, 769, VPL.2000.0003.1509; Exhibit RC0284, SML2958, 12 December 2008, 60, VPL.2000.0001.9295; Exhibit RC0305 Mr Sandy White diary, 12 December 2008, 521, RCMPI.0092.0001.0001 @.0521

level Petra Taskforce member, needed to talk to her about. Ms Gobbo asked if she had done anything wrong. She was told that if she hadn't done anything wrong, there was nothing for her to worry about. Mr Peter Smith recorded Ms Gobbo as 'very quiet' in relation to that response.⁴⁵⁹⁴

3430. On 15 December 2008, the Petra Taskforce reported to the Management Committee.⁴⁵⁹⁵ The only version of this update provided to the Commission was an electronic version which had been uploaded to an Interpose file. No version of this update exists within the Petra files maintained by Messrs Overland or Cornelius.
3431. Mr Smith's diary records that he attended the meeting at Mr Overland's office with he and Mr Moloney.⁴⁵⁹⁶ The written update mentioned nothing further about Ms Gobbo. It is not known what was said at the meeting about her.

16 December 2008 – Gobbo Questioned Further by the SDU

3432. On 16 December 2008, the last substantive face-to-face meeting occurred between Ms Gobbo and the SDU. Attending from the SDU were Messrs Sandy White and Peter Smith, the two members present in the first meeting with Ms Gobbo.
3433. Prior to this meeting Mr Sandy White had prepared an 'Interrogation Plan' which covered the use of phones, her relationship with Mr Dale and matters related to Mr Ahmed, and a plan to put some form of accusation about Ms Gobbo holding back information from the SDU. Mr Sandy White consulted with Mr O'Connell as to matters he proposed to raise with Ms Gobbo.⁴⁵⁹⁷
3434. During the meeting, amongst other matters:⁴⁵⁹⁸
- Mr Peter Smith noted that whilst Ms Gobbo was being asked uncomfortable questions about her use of bodgy phones, her body language changed, and she began scratching her stomach constantly
 - she still had an Orange brand mobile handset which she had used back in 2004
 - Ms Gobbo spoke about being the first person Mr Dale had called when he was arrested in December 2004, and that she had given the SDU notes provided to her by Mr Dale in prison⁴⁵⁹⁹
 - after having raised with Ms Gobbo earlier in the conversation that the Petra Taskforce believed that Mr Ahmed knew about the murder in advance, Mr Sandy White indicated he would like Ms Gobbo to talk to Mr Ahmed⁴⁶⁰⁰

⁴⁵⁹⁴ Exhibit RC0281 ICR2958 (049), 13 December 2008, 771, VPL.2000.0003.1511

⁴⁵⁹⁵ Exhibit RC1770 Petra Taskforce Weekly Update, 15 December 2008, 310-316 VPL.0100.0020.5275 @.5584-.5590

⁴⁵⁹⁶ RC1192 Mr Steven Smith diary, 15 December 2008, 102, RCMP1.0126.0001.0007 @.0102

⁴⁵⁹⁷ Exhibit RC0305, Mr Sandy White diary, 12 December, 521, RCMP1.0092.0001.0001 @.0521

⁴⁵⁹⁸ Exhibit RC0281 ICR2958 (049), 16 December 2008, 776-783, VPL.2000.0003.1516-23

⁴⁵⁹⁹ Exhibit RC1794 Audio summary 49, meeting between Ms Nicola Gobbo, Mr Sandy White, Mr Peter Smith, 16 December 2008, 7, 2:57:03, VPL.2000.0002.4184 @.0006

⁴⁶⁰⁰ Exhibit RC1794 Audio summary 49, meeting between Ms Nicola Gobbo, Mr Sandy White, Mr Peter Smith, 16 December 2008, 13, 1:31:10, 1:35:00, VPL.2000.0002.4184 @.0012

- it was suggested that Ms Gobbo, having knowledge that [REDACTED] Mr Ahmed knew about the murder in advance, would have questioned why he had been with her on the night. Ms Gobbo indicated that she did speak to him about it, he had told her that everyone knew it was going to happen⁴⁶⁰¹
- Mr Sandy White told Ms Gobbo that Mr O'Connell was sincere, and a very good investigator
- Mr Sandy White told Ms Gobbo that Mr Davey did not know about her role, and that Mr O'Connell knew she had been of assistance through Purana, that he had worked at Purana, but he didn't know exactly what she had done and what she had been involved in. He said that Mr O'Connell 'knows enough not to ask questions about it'⁴⁶⁰²
- it was agreed that Ms Gobbo would ask Mr O'Connell whether Mr Dale would be charged in the absence of her statement, and the required timeframe for her to make a statement.⁴⁶⁰³

3435. On 17 December 2008, Ms Gobbo advised that she had spoken to Mr O'Connell and he had still not made a decision. She had earlier spoken to the SDU about whether she should let Mr O'Connell know about the Orange phone in her possession.⁴⁶⁰⁴

19 December 2008 – SDU Directed to Convince Gobbo to Become a Witness

3436. On 19 December 2008, Mr Sandy White met with Mr Biggin. It was recommended that Ms Gobbo be convinced to become a witness in relation to Mr Dale.⁴⁶⁰⁵

3437. Mr Sandy White indicated in his evidence to the Commission that it was his view that Ms Gobbo should not become a witness, and his view changed when he was directed to change it; he was directed to convince Ms Gobbo to become a witness, if that was possible.⁴⁶⁰⁶

3438. On 22 December 2008, Ms Gobbo asked Mr Peter Smith whether Mr Sandy White had any further thoughts about her ability to assist the Petra Taskforce without getting into the witness box.⁴⁶⁰⁷ The following day Mr Green took over as Ms Gobbo's handler and discussed the matter with her generally.⁴⁶⁰⁸

⁴⁶⁰¹ Exhibit RC1794 Audio summary 49, meeting between Ms Nicola Gobbo, Mr Sandy White, Mr Peter Smith, 13, 1:45:20, VPL.2000.0002.4184 @.0012

⁴⁶⁰² Exhibit RC1794 Audio summary 49, meeting between Ms Nicola Gobbo, Mr Sandy White, Mr Peter Smith, 16 December 2008, 9, 1:03:00, VPL.2000.0002.4184 @.0008

⁴⁶⁰³ Exhibit RC1794 Audio summary 49, meeting between Ms Nicola Gobbo, Mr Sandy White, Mr Peter Smith, 16 December 2008, 12, 46:10, 1:05:20, VPL.2000.0002.4184 @.0011

⁴⁶⁰⁴ Exhibit RC0281 ICR2958 (049), 17 December 2008, 785, VPL.2000.0003.1525

⁴⁶⁰⁵ Exhibit RC0284, SML2958, 19 December 2008, 62, VPL.2000.0001.9236 @.9297

⁴⁶⁰⁶ Transcript of Mr Sandy White, 19 August 2019, 4860 [12-17], 4855 [23-28],

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⁴⁶⁰⁷ Exhibit RC0281 ICR2958 (049), 22 December 2008, 787, VPL.2000.0003.1527

⁴⁶⁰⁸ Exhibit RC0281 ICR2958 (050), 23 December 2008, 791, VPL.2000.0003.1531

December 2008 – Williams Debriefing Methodology

3439. Between 22 and 29 December 2008, Mr O’Connell was involved in taking further statements from Carl Williams, including in relation to the murder of the Hodsons.⁴⁶⁰⁹
3440. The Petra Taskforce had been interested in obtaining further co-operation from Carl Williams for some time. In August 2008 they were having discussions with his solicitor in relation to the matter and were informed that his appeal against sentence had been adjourned to February 2009.⁴⁶¹⁰ On 13 October 2008, Carl Williams’ mother, Barbara Williams, had contacted investigators indicating that he wished to speak with them.⁴⁶¹¹ By 3 November 2008, investigators had spoken with Carl Williams a number of times. It had been indicated to him that he could access a reward, immunity from prosecution and a sentence reduction if he assisted. Carl Williams had undertaken to contact a barrister to discuss his options and possible co-operation.⁴⁶¹²
3441. Matters progressed and on 5 December 2008, Mr Smith wrote a memorandum seeking permission to conduct an evidentiary debrief of Carl Williams.⁴⁶¹³ The memorandum was addressed to ‘Deputy Commissioner Overland, Steering Committee – Petra Taskforce’. Mr Smith told the Commission that whether or not such a document went to the Steering Committee would have been a matter for Mr Overland.⁴⁶¹⁴
3442. Mr Smith was examined about how a response or decision in relation to such a matter was recorded. He was taken to evidence he gave during a subpoena argument at the committal of Messrs Dale and Collins in March 2010. He agreed that in those proceedings the defence were trying to ascertain whether documents existed and whether there were records of decision making. During his evidence in March 2010, in respect of this document, he had said on that occasion that he had received a verbal response from Mr Overland and had not made a note. In that proceeding, Mr Smith told the court that as a matter of course he would not make notes of directions he received from the Deputy Commissioner, to do so would be the exception rather than the rule.⁴⁶¹⁵

⁴⁶⁰⁹ Exhibit RC01347 Mr Shane O’Connell diary, 22-29 December 2008, 80-85 RCMP1.0146.0001.0002 @.0080-.0085

⁴⁶¹⁰ Exhibit RC1804 Mr Simon Overland Petra Taskforce Folder 1, 4 August 2008, 162-263, VPL.0100.0013.0846 @.1010; Exhibit RC1770 Petra Taskforce Weekly Update, 4 August 2008, 223-230 VPL.0100.0001.5402 @.5624-5631; Exhibit RC1804 Mr Simon Overland Petra Taskforce Folder 1, 25 August 2008, 162-263, VPL.0100.0013.0846 @.0992-0998; Exhibit RC1770 Petra Taskforce Weekly Update, 25 August 2008, 164-171, VPL.0100.0013.5402 @.5565-5572

⁴⁶¹¹ Exhibit RC1804 Mr Simon Overland Petra Taskforce Folder 1, 5 October 2008, 62-73 VPL.0100.0013.0846 @.0907-.0918; Exhibit RC1770 Petra Taskforce Weekly Update, 13 October 2008, 174-186, VPL.0100.0001.5402 @.5575-.5587

⁴⁶¹² Exhibit RC1770 Petra Taskforce Weekly Update, 3 November 2008, 129-141, VPL.0100.0013.5402 @.5530-.5542

⁴⁶¹³ Exhibit RC1193 Memorandum from Detective Inspector Steven Smith to Mr Simon Overland, 5 December 2008, VPL.0100.0237.8288

⁴⁶¹⁴ Transcript of Detective Inspector Steven (Steve) Smith, 12 February 2020, 13932 [11-25], TRN.2020.02.12.01.P

⁴⁶¹⁵ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13933 [8] – [22], 13934 [9] – 13935 [14], TRN.2020.02.12.01.P; Exhibit RC1191 Transcript of Mr Paul Dale committal proceedings, 19 March 2010, 40, VGSO.3000.0316.0179 @.0219

3443. On 15 December 2008, Mr Smith wrote a further memorandum to Mr Overland in relation to the proposed evidentiary debrief of Carl Williams.⁴⁶¹⁶ The memorandum set out various matters in relation to which Mr Williams was prepared to assist Victoria Police, and various associated issues for which approval was sought.
3444. Incidentally, the first sentence of that memorandum indicated that the proposal to conduct an extensive debriefing of Carl Williams had previously been discussed with the Petra Taskforce Management Committee. Mr Smith was examined at Mr Dale's committal hearing about this document and this sentence as well. He was asked whether there were any documents evidencing the discussions with the Management Committee and responded, 'No, other than what's been produced', and referred to his notes, diary and the reports. When asked, Mr Smith said he believed that the Petra Taskforce Management Committee Updates had been provided by the committal.⁴⁶¹⁷ This does not appear to be the case. These were documents jealously guarded by Victoria Police, including during this Commission. None of these documents were within the committal disclosure documents produced to the Commission by Mr Dale.
3445. This document had been provided as part of the committal disclosure to Mr Dale in redacted form.⁴⁶¹⁸ One matter for which approval was sought by Mr Smith was the 'Debriefing methodology'. Everything below this heading was redacted in Mr Dale's version of the document. It is apparent from the committal transcript that Mr Dale's counsel, on account of the heading, accepted as legitimate a claim for public interest immunity for the matters below that heading.⁴⁶¹⁹
3446. The following was set out in the redacted section:

- Investigators propose the following in relation to the debriefing process;*
- To utilise an existing conference room at the venue for the taking of the statement*
 - To engage Williams in an initial 'overview' conversation that will be recorded by note taking. This conversation will give investigators an overview of his evidence and allow some preparation prior to the statements being obtained*
 - The statements will be individual statements pertaining to each event*
 - The statements will be obtained in the usual fashion via laptop computer by two members and Williams, in conversation/question and answer format*

⁴⁶¹⁶ Exhibit RC1194 Memorandum from Detective Inspector Steven Smith to Mr Simon Overland, 15 December 2008, VPL.0100.0237.8288

⁴⁶¹⁷ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13936 [32] – 13937 [8], TRN.2020.02.12.01.P;

Exhibit RC1191 Transcript of Mr Paul Dale committal proceedings, 19 March 2010, 54, VGSO.3000.0316.0179 @.0233

⁴⁶¹⁸ Exhibit RC1195 Redacted Memorandum from Detective Steven Smith to Mr Simon Overland, 15 December 2008, PND.026.002.0126

⁴⁶¹⁹ Exhibit RC1191 Transcript of Mr Paul Dale committal proceedings, 19 March 2010, 36, VGSO.3000.0316.0179 @.0214

- *These conversations will be [REDACTED] by this member. This will allow for research, corroboration, cross referencing to material and briefing of statement takers, of events and circumstances not known to them. [REDACTED]*
- *The statements will be obtained in a 'can say' format and be presented unsigned to the DPP for consideration of immunities etc*

3447. When Mr Smith was examined about this process, he indicated that this was not the normal statement taking process. He referred to it as 'over the top', probably caused by a desire to make sure that anything said by Carl Williams was able to be checked against intelligence holdings either to ensure it was factual or supported, or whether there were other relevant matters that were missed that investigators might want to 'refresh his memory' with. Mr Smith agreed with the proposition that before Carl Williams was able to commit to a version of events, what he was saying would be checked, and that the process of doing so would not be recorded.⁴⁶²⁰

3448. It was put to Mr Smith that it would be very important for the defence to know that before Carl Williams committed to his statement, which was being typed on a computer capable of deleting matters easily, that people were running back and forth checking the veracity of what he was saying.⁴⁶²¹ He agreed that the defence would be very interested in such a process being undertaken with Carl Williams. Mr Smith indicated he didn't seek legal advice in relation to the redactions and was not involved in the decision to redact it. He assumed that lawyers engaged by Victoria Police had have been involved in the matter.⁴⁶²²

24 December 2008 – Gobbo Becomes 'Person F'

3449. On 24 December 2008, Mr O'Connell received a message from Ms Gobbo and then spoke with her. From this time, he referred to Ms Gobbo in his diary as 'Person F'.⁴⁶²³

3450. On 26 December 2008, Ms Gobbo reported to the SDU having received a Christmas message from Mr Dale and provided the new mobile number from which she received the message.⁴⁶²⁴ On 29 December 2008, Mr Green spoke to Mr O'Connell about the new number. It was decided that the Petra Taskforce should submit the information report in relation to the number in order to keep the SDU 'out of this loop if revealed later by [Ms Gobbo] in any statement'.⁴⁶²⁵

3451. On 30 December 2008, Ms Gobbo reported to the SDU on a meeting with Messrs O'Connell and Davey. She said that she was meeting them a few

⁴⁶²⁰ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13937 [10] – 13938 [10], TRN.2020.02.12.01.P

⁴⁶²¹ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13938 [44] – 13939 [22], TRN.2020.02.12.01.P

⁴⁶²² Transcript of Detective Inspector Steven Smith, 12 February 2020, 13938 [22-34], TRN.2020.02.12.01.P

⁴⁶²³ Exhibit RC1347 Mr Shane O'Connell diary, 24 December 2008, 83, RCMPI.0146.0001.0002 @.0083

⁴⁶²⁴ Exhibit RC0281 ICR2958 (050), 26 December 2008, 793, VPL.2000.0003.1533

⁴⁶²⁵ Exhibit RC0281 ICR2958 (051), 29 December 2008, 795, VPL.2000.0003.1535

days hence to make a statement. She said they wanted her to address three matters in the statement:

- the use of the safe phones for communication
- the meeting with Mr Dale on 5 May 2004 who then saw Carl Williams on 6 May 2004
- her recently recorded meeting with Dale.

3452. Ms Gobbo spoke again about wanting to help 'ideally' without being a witness, about having been told by the Petra Taskforce that they needed her to make a statement or Mr Dale may not be charged, and feeling that the whole responsibility rested with her. Mr Green thought it possible that she was enjoying the scenario. During the conversation Ms Gobbo also referred to compensation. Mr Green discussed with Ms Gobbo the option of making the statement but not signing it yet.

3453. Ms Gobbo said that Mr Sandy White should meet with Mr O'Connell and tell him more about what she had been doing over the past three years, 'so he understood the position he was taking on,' which Ms Gobbo wanted to attend.⁴⁶²⁶

3454. Following this conversation Mr Green briefed Mr Richards, who had temporarily taken over as Ms Gobbo's controller whilst Mr Sandy White was on leave. It was determined that it was for Ms Gobbo to clarify her future position with the Petra Taskforce, not the SDU. Further, that any meeting that took place for the purpose of briefing Mr O'Connell about Ms Gobbo's relationship with the SDU would not be attended by Ms Gobbo.⁴⁶²⁷

3455. Later that night Ms Gobbo had a further conversation with Mr Green where she referred again to compensation issues, particularly as this was a situation that would cost her a lot of money as she would lose the prospect of being appointed as a silk or to the magistracy. She determined to make a list of issues that would need to be covered before she was willing to sign any statement.

3456. Ms Gobbo again stated that she believed O'Connell needed to know about her 'background' due to possible issues that may arise later at court.⁴⁶²⁸

30 December 2008 – SDU Concerns Heat Up

3457. On the same day, Mr Moloney advised Mr Biggin that Ms Gobbo was to sign a statement on Thursday, 31 December 2008.⁴⁶²⁹

3458. Mr Moloney told the Commission that he spoke to Mr Biggin so that the process of handover from the SDU to the Petra Taskforce could be commenced. He believed during this conversation Mr Biggin told him of concerns held by the SDU about the consequences of such a decision, and either he or Mr Biggin decided that a document would be prepared detailing the risks associated with Ms Gobbo becoming a witness. Mr Moloney said

⁴⁶²⁶ Exhibit RC0281 ICR2958 (051), 30 December 2008, 796, VPL.2000.0003.1536

⁴⁶²⁷ Exhibit RC0281 ICR2958 (051), 30 December 2008, 796, VPL.2000.0003.1536

⁴⁶²⁸ Exhibit RC0281 ICR2958 (051), 30 December 2008, 797, VPL.2000.0003.1537

⁴⁶²⁹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 30 December 2008, 700, RCMP1.0075.0001.0001 @.0700

he would have told Mr Biggin that there was going to be a meeting of the Petra Taskforce Management Committee meeting on 5 January 2009 which would consider the issues.⁴⁶³⁰

3459. Mr Biggin noted this in his diary, along with other matters including that:

- a meeting was to occur between handlers and investigators to discuss legal issues and witness security.
- the need to notify Messrs Black and Glow of events.⁴⁶³¹

3460. Mr Biggin then spoke with Mr Black, who was unaware that Ms Gobbo was to make a statement. They discussed the need to prepare for Ms Gobbo's transition to being handled by investigators and witness security, and the need for a risk assessment. Mr Black was instructed that the SDU should consider the implications of Ms Gobbo making a statement and report to Mr Biggin by the following afternoon.⁴⁶³²

3461. Mr Black then conducted a conference call with Messrs Richards, Peter Smith and Green, where they discussed the issue of Ms Gobbo making a statement and becoming a witness, and indicating that there was to be a further SDU meeting the following morning.⁴⁶³³ Mr Black indicated that there was to be a briefing paper provided to Mr Biggin in relation to the strengths, weaknesses, opportunities and threats of the decision to take a statement from Ms Gobbo and use her as a witness. He noted in his diary a number of the implications discussed during the conference call, including:

- *SDU – Ongoing viability, SOP methodology, tradecraft & exposure of staff*
- *HS credibility*
- *Prior inconsistent statements – call for recordings*
- *HS medication, history and fitness for interview*
- *Source identity becomes known*
- *Professional employment would be ended if role becomes exposed*
- *Sources role with VicPol*
- *Issues with existing court cases*
- *Appeal issues with former clients re unsafe verdict.*⁴⁶³⁴

3462. Mr Black then spoke with Mr Biggin, telling him the main points raised during the conference call.⁴⁶³⁵

⁴⁶³⁰ Transcript of Mr Danye Moloney, 20 February 2020, 14601 – 14602, TRN.2020.02.20.01P

⁴⁶³¹ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 30 December 2008, 700, RCMP.I.075.0001.0001 @.0700

⁴⁶³² Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 30 December 2008, 700, RCMP.I.075.0001.0001 @.0700; Exhibit RC0591 Mr Black diary, 30 December 2008, 617, RCMP.I.0090.0001.0001 @.0617

⁴⁶³³ Exhibit RC0591 Mr Black diary, 30 December 2008, 617, RCMP.I.0090.0001.0001 @.0617

⁴⁶³⁴ Exhibit RC0591 Mr Black diary, 30 December 2008, 617, RCMP.I.0090.0001.0001 @.0617

⁴⁶³⁵ Exhibit RC0591 Mr Black diary, 30 December 2008, 617, RCMP.I.0090.0001.0001 @.0617

3463. On the morning of 31 December 2008, an SDU meeting occurred which was attended by Messrs Black, Richards, Green, Peter Smith, Anderson, and two SDU analysts in which there was discussion of the 'assorted issues of [Ms Gobbo] making a statement'. Following the meeting Mr Black completed a briefing note as Mr Biggin had requested. The briefing note was checked by 'all SDU'. This briefing note became known as the 'SWOT analysis', as it was an analysis of risk based upon the various Strengths, Weaknesses, Opportunities and Threats which existed should Ms Gobbo be transitioned from human source to a witness for the Petra Taskforce.
3464. During this time Mr Green was dealing with Ms Gobbo and Mr Sandy White, and the following occurred:
- Ms Gobbo indicated that if the SDU did not speak to Mr O'Connell about her past, she would
 - she was later told that Mr O'Connell knew a brief summary of her role as a human source
 - she wanted to know what Mr Sandy White wanted her to do and was told that he wanted her to make a statement, which gave her some comfort
 - Mr Green spoke to Mr Sandy White who contacted the Petra Taskforce to confirm that Ms Gobbo's evidence was important and required
 - Ms Gobbo indicated she intended to contact Mr O'Connell that day and make demands prior to making the statements
 - Mr Green spoke to Mr O'Connell about those matters.⁴⁶³⁶
3465. Mr Black was being filled in about those matters, and along with Mr Richards, had left a message for Mr Sandy White about the briefing note. He also spoke with Mr Biggin a number of times during the day and provided him with the briefing note during the afternoon.⁴⁶³⁷ The following day, Mr Biggin spoke with Mr Sandy White, who was on leave and not involved in the SDU meetings, in relation to 'issues/tactics/options' associated with Ms Gobbo.⁴⁶³⁸
3466. Later Ms Gobbo told Mr Green that she would give Mr O'Connell a list of matters she required the following morning and would ask that they be taken to Mr Overland. She would make the statement, but not sign, so that Mr Overland would know what she could offer in order to consider assistance to her.⁴⁶³⁹

⁴⁶³⁶ Exhibit RC0281 ICR2958 (051), 30 December 2008, 798, VPL.2000.0003.1538-9

⁴⁶³⁷ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 31 December 2008, 702, RCMPI.0075.0001.0001 @.0702

⁴⁶³⁸ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 1 January 2009, 704, RCMPI.0075.0001.0001 @.0704

⁴⁶³⁹ Exhibit RC0281 ICR2958 (051), 30 December 2008, 800, VPL.2000.0003.1540

Late 2008

3467. On 29 December 2008, a meeting of the Petra Taskforce Management Committee had taken place, chaired by Mr Overland.⁴⁶⁴⁰ There does not appear to have been a weekly update prepared. Because of the lack of record keeping it cannot be determined for certain who else was present. It is assumed Mr Moloney was present, but unknown whether Mr Ashton attended. There is no record of what was discussed or decided at this meeting.
3468. Mr Hollowood was not present at the meeting. He said that having checked his diary, he would certainly have been available had he been invited.⁴⁶⁴¹
3469. On 31 December 2008, Mr Hollowood met with Mr Moloney. Mr Moloney informed him of recent developments, relating to the taking of a statement from Carl Williams which was at that stage contingent upon certain undertakings and immunities.
3470. Mr Hollowood raised his concerns for a second time, having raised concerns on 8 December 2008. He expressed concern as to his ability to undertake the role performing tactical decision making for the Petra Taskforce Management Committee, when his role which should involve operation oversight, was being bypassed and information was not being communicated to him. He said that Mr Smith, the OIC of the Petra Taskforce, had missed operational briefings for two weeks running and had been reporting directly to Mr Moloney.
3471. Mr Hollowood was concerned that investigators were communicating with the Petra Taskforce Management Committee directly, and the Committee was being dragged into tactical decision making which was not supposed to occur from an oversight committee. He told Mr Moloney of his concern about the management and direction of the investigation and suggested an independent Superintendent such as Murray Fraser, be appointed to review the investigation and assess the strength of the case.
3472. Mr Moloney apologised to Mr Hollowood for his non-inclusion and received general assurances that he would be included in the future. Mr Hollowood said that nothing happened in relation to his suggestion of an independent review of the case. He said the only added feature of the case following this time was Ms Gobbo became a witness, but he had continued reservations about Carl Williams being a witness of truth.⁴⁶⁴²
3473. Mr Moloney accepted that Mr Hollowood, an experienced Superintendent overseeing the Petra Taskforce investigators had recommended an independent review of the investigation of Mr Dale. Mr Moloney agreed that it was an option that an independent person be given Carl Williams'

⁴⁶⁴⁰ Exhibit RC1192 Detective Inspector Steven Smith diary, 29 December 2009, 109, RCMP1.0126.0001.0007 @.0109; Exhibit RC1347 Mr Shane O'Connell diary, 29 December 2008, 85, RCMP1.0146.0001.0002 @.0085

⁴⁶⁴¹ Transcript of Superintendent Paul Hollowood, 12 February, 13860, TRN.2020.02.12.01.P

⁴⁶⁴² Exhibit RC1188 Superintendent Paul Hollowood diary, 31 December 2008, 38, VPL.0005.0215.0038; Transcript of Superintendent Paul Hollowood, 12 February 2020, 13861-13864, TRN.2020.02.12.01.P

statement, Ms Gobbo's statement and the SDU SWOT analysis to review the case. This was never done.⁴⁶⁴³

1-2 January 2009 – Unsigned Statement Taken from Gobbo

3474. On 1 and 2 January 2009, Ms Gobbo met with Petra Taskforce investigators who took a statement from her.
3475. Ms Gobbo spoke to Mr Green at the end of the first day. She told him that she had included in her statement that she had been told by Mr Thomas that Mr Dale had provided information to Carl Williams. Ms Gobbo said that Mr Thomas had made a statement to the Petra Taskforce as to this, which she had read, although investigators did not know this.⁴⁶⁴⁴
3476. On 2 January 2009, before recommencing her statement, Ms Gobbo spoke again to Mr Green. During the conversation she raised again the need for Mr O'Connell to be told about her history, that she did not want the possibility of 'the informer side coming out, ever'. She asked to speak to Mr Sandy White in the next week to get his perspective on matters.
3477. Ms Gobbo also raised concerns that she was just being given the standard reassurance about being looked after by Mr O'Connell, when there were serious implications involved. Somewhat prophetically Mr Green noted in the ICR under the heading 'SDU and Investigators issue', a quote from Ms Gobbo, 'I do not want to have to sue them in a year's time, if I don't get what I need'.⁴⁶⁴⁵ Ms Gobbo issued proceedings against Victoria Police, Ms Nixon and Mr Overland in April 2010.
3478. Later, after spending the day with Messrs O'Connell and Davey, Ms Gobbo reported to Mr Green. She told him that despite pressure, she had not signed the statement. Mr Green reminded Ms Gobbo that 'source and witness work' were to be kept far removed from each other. Ms Gobbo indicated that Mr O'Connell would contact her the following week to sign the statement after talking to Mr Sandy White to get background details. Ms Gobbo spoke further about the need for compensation, saying 'this evidence is gold but comes at a price'.⁴⁶⁴⁶
3479. During the day Mr Biggin spoke with Mr Richards about the statement process for Ms Gobbo being underway.⁴⁶⁴⁷
3480. On 3 January 2009, after speaking with Messrs O'Connell and Davey, Mr Smith spoke to Mr Overland about Ms Gobbo,⁴⁶⁴⁸ clearly providing him with an update as to the stage reached in relation to the taking of Ms Gobbo's statement.⁴⁶⁴⁹ Mr Hollowood, who had within the week before expressed concerns about being bypassed and about the management of the case,

⁴⁶⁴³ Transcript of Mr Dannye Moloney, 20 February 2020, 14599, TRN.2020.02.20.01.P

⁴⁶⁴⁴ Exhibit RC0281 ICR2958 (051), 1 January 2009, 800, VPL.2000.0003.1540

⁴⁶⁴⁵ Exhibit RC0281 ICR2958 (051), 1 January 2009, 801, VPL.2000.0003.1541

⁴⁶⁴⁶ Exhibit RC0281 ICR2958 (051), 2 January 2009, 802, VPL.2000.0003.1542

⁴⁶⁴⁷ Exhibit RC0578 Mr Anthony (Tony) Biggin, 2 December 2008, 705, RCMP1.0075.0001.0001 @.0705

⁴⁶⁴⁸ Exhibit RC1192 Detective Inspector Steven Smith, 3 January 2009, 112, RCMP1.0126.0001.0007

@.0012

⁴⁶⁴⁹ Transcript of Mr Simon Overland, 20 December 2019, 11836, TRN.2019.12.20.01.P

said that Mr Smith should have been reporting to him during this period of time, but obviously was not.⁴⁶⁵⁰

The SWOT Analysis

3481. Mr Biggin said he that he had directed the SDU to prepare the SWOT analysis in order that the consequences of the decision to make Ms Gobbo a witness were fully identified. He said that whilst such consequences had previously been verbalised, they had not been documented in a proper fashion. Mr Biggin wanted a record of having flagged the issues with Command, should things go 'completely pear-shaped' in the future. He told the Commission that sending this document was a 'career limiting' move. When questioned about this, Mr Biggin referred to those sitting on the Petra Taskforce Management Committee who would likely be sitting on a promotion panel in the future. He said that whilst he was not necessarily concerned for his own career, he had been concerned that this might have been 'black mark' against those at the SDU who had been involved in preparing the SWOT analysis.⁴⁶⁵¹
3482. On 2 January 2009, Mr Biggin prepared and signed an Issue Cover Sheet (the Biggin memo) which he sent along with the SDU SWOT analysis to Mr Porter, with a recommendation that it be sent to Mr Moloney.⁴⁶⁵² Mr Moloney had previously been the Commander in charge of I&CS (with oversight of the SDU), and since November 2008 he had been the Assistant Commissioner of Crime and a member of the Petra Taskforce.
3483. The Biggin memo noted:
- Ms Gobbo had been placed in contact with Mr O'Connell of the Petra Taskforce
 - Ms Gobbo had been registered as a human source since 16 September 2005
 - her registered number had been changed because of concerns arising as to disclosure in court proceedings
 - attached was a briefing paper setting out a strategic analysis based upon a SWOT analysis, which provided good background
 - if Ms Gobbo ultimately signed a statement and became a witness, it was a matter for her and the investigators
 - Ms Gobbo had been a very productive human source; she was responsible for a number of investigations and was due a reward as a result
 - Ms Gobbo was highly needy and would be resource intensive
 - there were a number of organisational risks that the SDU were prepared to expand upon to Petra Taskforce Management

⁴⁶⁵⁰ Transcript of Superintendent Paul Hollowood, 12 February, 13867, TRN.2020.02.12.01.P

⁴⁶⁵¹ Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7635-7638 TRN.2019.10.10.01.P

⁴⁶⁵² Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 2 January 2009, 530-535, VPL.0100.0129.0001 @.0530-0535

- the purpose of the paper was to ensure that decision makers were in possession of relevant information to allow proper decisions to be made
- decisions made today may have long term implications for Victoria Police.

3484. The attached SDU SWOT analysis referred, amongst other matters, to the following implications arising from a decision that Ms Gobbo should make a statement and become a witness:

- that Ms Gobbo's long term relationship with Victoria Police as a human source would be exposed
- the possibility of an OPI or government review in to the legal and/or ethical implications of having used Ms Gobbo, a serving barrister, as a human source
- the threat of a judicial review of police action in tasking and deploying a lawyer
- the risk of the ICRs and covert recordings being disclosed
- issues around claiming public interest immunity
- the potential for appeals to be instituted and convictions obtained to be considered unsafe
- the potential for prosecutions on foot, such as the case against Tony Mokbel, to be jeopardised
- the revelation of Ms Gobbo's prior inconsistent statements to the SDU about her relationship with Mr Dale, and her failure to disclose the false mobile phone numbers she used to contact him
- concerns as to Ms Gobbo's questionable motivation.
- that costs to Victoria Police could be substantial because of:
 - Ms Gobbo's [REDACTED] as a result of her being [REDACTED] in the legal fraternity
 - [REDACTED] if her entire role became known.
- the risk to Ms Gobbo's safety including death or serious injury, considering she did not want to [REDACTED]
- concerns about Ms Gobbo's physical and mental health
- concerns that Ms Gobbo's status as a human source was known to numerous investigators because of the time over which she had been a human source (which presumably increased the risk of her being exposed as such).

3485. On the evidence, it is open to the Commissioner to find that it would have been clear to anyone aware of the contents of this SWOT analysis, or who had knowledge of the concerns raised within it, that Ms Gobbo's role as a human source had not previously been

disclosed in any court proceeding. That is so, because logically, if the courts had previously condoned her use, many of the weakness and threats would have already been dealt with:

- **there would be no concern as to OPI, government or judicial review**
- **there would be no concern about Ms Gobbo's exposure as a human source**
- **there would be no concern about past convictions being overturned**
- **there would be no concern about Tony Mokbel's case, or other cases, which were on foot or contemplated.**

5 January 2009 – Delivery of the SWOT Analysis to Moloney and Overland

3486. On the morning of 5 January 2009, Mr Porter signed off on Mr Biggin's recommendation. Mr Biggin collected the file from Mr Porter and then delivered it to Mr Buick, who was at that time the staff officer for Mr Moloney.⁴⁶⁵³
3487. At the time, Mr Moloney was in a meeting with Messrs Hollowood and Smith discussing the 'proposed investigative direction' and timetabling matters related to the Petra Taskforce.⁴⁶⁵⁴ Both Messrs Hollowood and Smith denied being told about the SWOT analysis at that time, and indeed afterwards.⁴⁶⁵⁵ Mr Moloney also said he would not have shown the document to them as it was a file from a Superintendent which was headed to a Deputy Commissioner. It seems unlikely that Mr Moloney would have shared the document with them, at least not before discussing it with Mr Overland.⁴⁶⁵⁶
3488. Following the meeting with Mr Moloney, Mr Smith recorded in his diary speaking with Mr Biggin 're RHS'. Mr Biggin noted that they discussed that Ms Gobbo would be deactivated upon signing any statement and her management responsibility transferred to the Petra Taskforce. He told Mr Smith that Ms Gobbo was high maintenance and that other units may want to speak to her.⁴⁶⁵⁷
3489. Mr Moloney said that Mr Biggin had a practice of providing him verbal briefings about significant matters prior to elevating them to him and that he

⁴⁶⁵³ Exhibit RC0578 Mr Anthony (Tony) Biggin, 5 January 2009, 706 RCMP.0075.0001.0001 @.0706; Exhibit RC1328 Screen capture of correspondence register, VPL.0098.0026.0001; Exhibit RC1328 Correspondence register timestamps, 5 January 2009, VPL.0098.0026.0002

⁴⁶⁵⁴ Exhibit RC945 Superintendent Paul Hollowood diary, 5 January 2009, 41, VPL.0005.0215.0041; Exhibit RC1192 Detective Inspector Steven Smith, 5 January 2009, 112, RCMP.0126.0001.0007 @.0112

⁴⁶⁵⁵ Transcript of Superintendent Paul Hollowood, 12 February, 13872, TRN.2020.02.12.01.P; Transcript of Detective Inspector Steven Smith, 12 February 2020, 13951-13952, TRN.2020.02.12.01.P

⁴⁶⁵⁶ Transcript of Mr Dannye Moloney, 20 February 2020, 14600, TRN.2020.02.20.01.P

⁴⁶⁵⁷ Exhibit RC1192 Detective Inspector Steven Smith, 5 January 2009, 112, RCMP.0126.0001.0007 @.0112; Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 5 January 2009, 44, RCMP.0075.0001.0001 @.0707; Transcript of Detective Inspector Steven Smith, 12 February 2020, 13944-13948, TRN.2020.02.12.01.P

thought it highly likely that Mr Biggin told him about the SWOT analysis before he received it.⁴⁶⁵⁸

3490. Mr Moloney agreed that the SWOT analysis raised very major concerns for Victoria Police, and major risks associated with the transition of Ms Gobbo from human source to witness. He said for that reason he took it by hand to Mr Overland with the intention that it should be tabled at the Petra Taskforce Management Committee meeting for consideration. He wrote on the file that it was destined for 'D/C Overland' for 'Petra Steering Committee – Consideration'.⁴⁶⁵⁹
3491. Mr Buick made entries in the Correspondence Register at around 3:30pm indicating that Mr Moloney took the file to Mr Overland by hand.⁴⁶⁶⁰ This was half an hour prior to the scheduled Petra Taskforce Management Committee meeting, allowing them time to discuss the issues raised in the memo and SWOT analysis.
3492. Mr Moloney said that Mr Buick would have made this entry as he left St Kilda Road Police Station where he was stationed, to attend Mr Overland's office at the Victoria Police Centre, about a ten to fifteen minute journey.⁴⁶⁶¹ He was confident he delivered the document by hand to Mr Overland, believing it likely to have occurred prior to the meeting.⁴⁶⁶²
3493. When Mr Overland was initially asked questions about the Biggin memo and the SDU SWOT analysis he said he did not believe he had seen the document at the time, agreeing that it was the kind of document one would remember having seen. He did not accept the proposition that the document was a 'bomb' that could have made his impending position as Chief Commissioner of Police untenable.⁴⁶⁶³
3494. Although Mr Overland said he did not believe he had seen the document, he indicated that he agreed with all the matters raised in it. When risks including the potential for convictions to be overturned and prosecutions jeopardised were put to him, Mr Overland responded that he had always understood that the fact of having used a criminal barrister as a human source would be an 'obvious line of attack' in a criminal proceeding. He said he had known this from the time Ms Gobbo had been engaged as a human source.⁴⁶⁶⁴
3495. Mr Overland was shown a folder which contained various documents in numbered plastic wallets, including relating to his period of time, some of which contained his handwriting, including:

⁴⁶⁵⁸ Exhibit RC1629 Statement of Mr Dannye Moloney, 5 October 2019, 16-17 [100], VPL.0014.0070.0001 @.0016-.0017..

⁴⁶⁵⁹ Exhibit RC1629 Statement of Mr Dannye Moloney, 5 October 2019, 17 [101-102], VPL.0014.0070.0001 @.0017; Transcript of Mr Dannye Moloney, 20 February 2020, 14607, TRN.2020.02.20.01.P

⁴⁶⁶⁰ Exhibit RC1328 Screen capture of correspondence register, VPL.0098.0026.0001; Exhibit RC1328 Correspondence register timestamps, 5 January 2009, VPL.0098.0026.0002.

⁴⁶⁶¹ Transcript of Mr Dannye Moloney, 20 February 2020, 14608, TRN.2020.02.20.01.P

⁴⁶⁶² Exhibit RC1325c Supplementary statement of Mr Dannye Moloney, 19 February 2020, 3 [19], VPL.0014.0070.0049 @.0051

⁴⁶⁶³ Transcript of Mr Simon Overland, 20 December 2019, 11839-11840, TRN.2019.12.10.01.P

⁴⁶⁶⁴ Transcript of Mr Simon Overland, 20 December 2019, 11841 TRN.2019.12.10.01.P

- No. 158 – Petra Taskforce, Operation Loris Timeline Strategy, which included information that Ms Gobbo had completed but not signed a statement and had agreed to meet with investigators on 7 January 2009. This contained Mr Overland’s handwritten notations, ‘immediate relocation’ and ‘source to Crown witness’⁴⁶⁶⁵
- No. 159 – Petra Taskforce media plan, including Mr Overland’s handwritten notations⁴⁶⁶⁶
- No. 160 – Petra Taskforce Weekly Update, dated 5 January 2009, containing Mr Overland’s handwritten notations⁴⁶⁶⁷
- No. 161 – Original Biggin memo and SDU SWOT analysis with dissemination list indicating Moloney had sent it to Mr Overland for ‘Petra Steering Committee – Consideration’⁴⁶⁶⁸
- No. 162 – Unsigned statement by Gobbo.⁴⁶⁶⁹

3496. Whilst Mr Overland could not recall having compiled the Petra Taskforce documents into the folder in which they were now stored, he did recall keeping them in a folder in a safe, probably in plastic wallets given that the documents were not hole punched. He accepted that the documents around this time period in late December to early January seemed to be documents which had progressively been provided to him.⁴⁶⁷⁰

5 January 2009 – Petra Taskforce Management Committee Meeting

3497. A meeting of the Petra Taskforce Management Committee occurred at 4:00pm until approximately 5:45pm.⁴⁶⁷¹

Overland Evidence

3498. Mr Overland said he did not recall the meeting of 5 January 2009. He agreed that from the diary entries of Messrs Hollowood and Smith, the meeting appeared to be lengthy.⁴⁶⁷² He also agreed that the issue of what to do with Ms Gobbo must have been discussed at the meeting.⁴⁶⁷³

3499. It was put to Mr Overland that in order to make a proper decision as to whether Ms Gobbo should become a witness, he would require a very clear idea about the evidence she would provide, in order to weigh against the risks, given she had been a human source for a number of years.⁴⁶⁷⁴

⁴⁶⁶⁵ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 1 May 2007, 506-517 VPL.0100.0129.0001 @.0506-.0517

⁴⁶⁶⁶ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 1 May 2007, 518-522, VPL.0100.0129.0001 @.0518-.0522

⁴⁶⁶⁷ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 1 May 2007, 523-529 VPL.0100.0129.0001 @.0523-.0529

⁴⁶⁶⁸ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 1 May 2007, 530-535 VPL.0100.0129.0001 @.0530-.0535

⁴⁶⁶⁹ Exhibit RC1084 Mr Simon Overland Petra Taskforce Folder 2, 1 May 2007, 536-546, VPL.0100.0129.0001 @.0536-.0546

⁴⁶⁷⁰ Transcript of Mr Simon Overland, 20 December 2019, 11852-11853, TRN.2019.12.10.01.P

⁴⁶⁷¹ Exhibit RC1188 Superintendent Paul Hollowood diary, 5 January 2009, VPL.0005.0215.0001 @.0041; Exhibit RC1192 Detective Inspector Steven Smith, 5 January 2009, 112, RCMP.0126.0001.0007 @.0112

⁴⁶⁷² Transcript of Mr Simon Overland, 20 December 2019, 11836, 11859, TRN.2019.12.10.01.P

⁴⁶⁷³ Transcript of Mr Simon Overland, 20 December 2019, 11836, TRN.2019.12.10.01.P

⁴⁶⁷⁴ Transcript of Mr Simon Overland, 20 December 2019, 11853-11854, TRN.2019.12.10.01.P

3500. He accepted that both Messrs Biggin and Moloney indicated that the Biggin memo and SDU SWOT analysis should be provided to the Petra Taskforce Management Committee for their consideration.⁴⁶⁷⁵
3501. Mr Overland said he could not recall seeing the Biggin memo and SDU SWOT analysis,⁴⁶⁷⁶ but accepted that the evidence suggested that he received it.⁴⁶⁷⁷
3502. Mr Overland said that it was his understanding that these were general concerns associated with having used a barrister as a human source, and that he had always understood that such matters might be an issue at trial.⁴⁶⁷⁸
3503. Mr Overland asserted that he was not aware that Ms Gobbo's role as a human source had not been disclosed previously.⁴⁶⁷⁹
3504. Mr Overland told the Commission that he believed he discussed the issues raised by the SDU with Mr Ashton. When Mr Overland was asked if he had specifically raised with Mr Ashton issues of the nature raised in the paragraphs above, he said he did not recall.⁴⁶⁸⁰ Mr Overland said that Mr Ashton knew that Ms Gobbo was being used as a human source, but could not say if he knew about Ms Gobbo's association with the Purana Taskforce and with Tony Mokbel and his associates.⁴⁶⁸¹
3505. It was put to Mr Overland that the SDU SWOT analysis was a document which should have immediately been provided to the OPI. He responded that if it had come to the Petra Taskforce Management Committee, Mr Ashton would have seen it.⁴⁶⁸²
3506. Mr Overland was asked whether such a document, assuming he had seen it, should have been provided to the Chief Commissioner. He initially suggested that he had spoken to Ms Nixon about the issue. When pressed further, he said his discussions with Ms Nixon related to the plan to arrest Mr Dale as it was a significant issue which was going to become public. When further questioned about whether he reported to Ms Nixon the organisational risks involved in using Ms Gobbo as a witness, Mr Overland said he could not recall if he told Ms Nixon that Ms Gobbo had been a human source, but he would have told her that there was an important witness [REDACTED] and there were processes being put in place to manage her safety and security. He then said that he did not accept it was necessary to brief Ms Nixon as she tended not to be involved in operational matters.⁴⁶⁸³
3507. It was put to Mr Overland that the SWOT analysis set out issues beyond implications to the Petra Taskforce investigation; the Chief Commissioner would have wanted to know that there were concerns being raised about OPI inquiries, judicial inquiries and verdicts being upset. Mr Overland

⁴⁶⁷⁵ Transcript of Mr Simon Overland, 20 December 2019, 11854-11855, TRN.2019.12.10.01.P

⁴⁶⁷⁶ Transcript of Mr Simon Overland, 20 December 2019, 11853, TRN.2019.12.10.01.P

⁴⁶⁷⁷ Transcript of Mr Simon Overland, 20 December 2019, 11861, TRN.2019.12.10.01.P

⁴⁶⁷⁸ Transcript of Mr Simon Overland, 20 December 2019, 11855-11856, TRN.2019.12.10.01.P

⁴⁶⁷⁹ Transcript of Mr Simon Overland, 20 December 2019, 11856-11858, TRN.2019.12.10.01.P

⁴⁶⁸⁰ Transcript of Mr Simon Overland, 20 December 2019, 11857, TRN.2019.12.10.01.P

⁴⁶⁸¹ Transcript of Mr Simon Overland, 20 December 2019, 11865, TRN.2019.12.10.01.P

⁴⁶⁸² Transcript of Mr Simon Overland, 20 December 2019, 11859, 11861, TRN.2019.12.10.01.P

⁴⁶⁸³ Transcript of Mr Simon Overland, 20 December 2019, 11860-11861, TRN.2019.12.10.01.P

responded, 'If they happened'. He did not accept that the SDU SWOT analysis deserved proper analysis or investigation to determine there was any substance to the concerns.⁴⁶⁸⁴

3508. At the time of this meeting Mr Overland had been interviewed for the position of Chief Commissioner, following the announcement by Ms Nixon in early November 2008 that she would be stepping down in March 2009. It was put to Mr Overland that if it had been discovered that the concerns contained in the SDU SWOT analysis had any basis in fact, it would have meant he would never be the Chief Commissioner. He did not accept this proposition, or that his decision making had been influenced by such matters.⁴⁶⁸⁵
3509. If it is accepted that by January 2009, Mr Overland had the SWOT analysis in his hands, then at that date he was aware of concern about OPI, government and judicial enquiries, and as to the legitimacy of convictions obtained and pending prosecutions. The risks outlined in the SWOT analysis at a minimum called for further enquiries of Mr Biggin and the SDU.

Moloney Evidence

3510. Mr Moloney said that there was discussion about whether Ms Gobbo should be transitioned from human source to witness at earlier Petra Taskforce Management Committee meetings, and it was determined that they could not ultimately make a decision until they had a statement so that the value of her evidence could be assessed against the risks involved.⁴⁶⁸⁶
3511. Mr Moloney recalled attending the meeting on 5 January 2009 and believed that the concerns raised in the Biggin memo and the SDU SWOT analysis were discussed.⁴⁶⁸⁷ He said this discussion would have occurred in the absence of Messrs Hollowood and Smith, as investigators would attend at the start of Petra Taskforce meetings for the briefing, then the Committee would meet alone.⁴⁶⁸⁸
3512. Given Mr Cornelius' absence, that left Messrs Overland, Moloney and Ashton in the room. Mr Moloney said that he knew at the time that Mr Ashton was aware that Ms Gobbo was a human source, although he was perhaps less informed as to the extent of her informing, and that he felt free to talk about Ms Gobbo and her history as a human source in that environment.⁴⁶⁸⁹ Mr Moloney said that he understood that Mr Cornelius, who was absent at this meeting, was fully aware of the extent of Ms Gobbo's informing.⁴⁶⁹⁰
3513. Mr Moloney believed that the Biggin memo and SDU SWOT analysis were tabled at the meeting. He said he could not recall if Mr Ashton read the document, but that the document was spoken to. He then said he had a

⁴⁶⁸⁴ Transcript of Mr Simon Overland, 20 December 2019, 11862, TRN.2019.12.10.01.P

⁴⁶⁸⁵ Transcript of Mr Simon Overland, 20 December 2019, 11863, TRN.2019.12.10.01.P

⁴⁶⁸⁶ Transcript of Mr Dannye Moloney, 20 February 2020, 14597-14598, TRN.2020.02.20.01.P

⁴⁶⁸⁷ Exhibit RC1325C Supplementary statement of Mr Dannye Moloney, 19 February 2020, 4 [22] VPL.0014.0070.0049 @.0052; Exhibit RC1629 Statement of Mr Dannye Moloney, 5 October 2019, 23 [147], VPL.0014.0070.0001 @.0023.

⁴⁶⁸⁸ Exhibit RC1325c Supplementary statement of Mr Dannye Moloney, 19 February 2020, 4 [23], VPL.0014.0070.0049 @.0052

⁴⁶⁸⁹ Transcript of Mr Dannye Moloney, 20 February 2020, 14610, TRN.2020.02.20.01.P

⁴⁶⁹⁰ Transcript of Mr Dannye Moloney, 20 February 2020, 14610, TRN.2020.02.20.01.P

recollection of Mr Overland referring generally to the contents of the document and saying words to the effect that he was aware of all the matters raised in the documents, but that they came from only one perspective. Mr Moloney was asked whether, given the presence of Mr Ashton, the implications relating to possible OPI review were raised. Mr Moloney said not to his memory.⁴⁶⁹¹

3514. Mr Moloney said that his best recollection was that Mr Overland made the final decision to transition Ms Gobbo from human source to witness, after discussion about it by the Committee. He said the Committee provided advice and guidance, but in relation to key operational matters the ultimate decision rested with the head of the Taskforce. Mr Moloney indicated that he had supported Mr Overland's decision because of the importance of her evidence, and the options available to ensure her safety, including high level witness protection.⁴⁶⁹²
3515. Mr Moloney said that there was no real consideration of the Biggin memo and the SDU SWOT analysis by the Petra Taskforce Management Committee, aside from Mr Overland reading it and making comments. He was asked, given the serious implications raised by the SDU SWOT analysis, what that said about the governance at Victoria Police. Mr Moloney did not think there was anything wrong with the governance, stating that the head of the investigation makes the decision. He said Mr Overland chose not to advance the discussion and had the right to do so.⁴⁶⁹³
3516. Mr Moloney agreed that there appeared to have been a great haste to have Ms Gobbo's sign her statement around that time. He presumed that was so the arrests would take place.⁴⁶⁹⁴

Ashton Evidence

3517. Mr Ashton's evidence was that he was certainly aware generally at that time of the SDU's desire that Ms Gobbo not be transitioned from human source to a witness. He said his understanding for their resistance related to the risk to her safety.⁴⁶⁹⁵
3518. Mr Ashton said he did not recall the 5 January 2009 meeting, so he could not say what was discussed.⁴⁶⁹⁶ When asked if he saw the Biggin memo, he said that he did not recall having read it. He was asked if his response meant that he had not seen the memo as a matter of certainty, or whether he simply did not recall. He said he did not recall having seen it. When he was shown the SWOT analysis, which referred to the possibility of OPI or

⁴⁶⁹¹ Exhibit RC1325c Supplementary statement of Mr Dannye Moloney, 19 February 2020, 4 [22], VPL.0014.0070.0049 @.0052; Transcript of Mr Dannye Moloney, 20 February 2020, 14610, TRN.2020.02.20.01.P

⁴⁶⁹² Exhibit RC1629 Statement of Moloney, 5 October 2019, 17 [104]-[105], VPL.0014.0070.0001 @.0017.

⁴⁶⁹³ Transcript of Mr Dannye Moloney, 20 February 2020, 14614, TRN.2020.02.20.01.P

⁴⁶⁹⁴ Transcript of Mr Dannye Moloney, 20 February 2020, 14618, TRN.2020.02.20.01.P

⁴⁶⁹⁵ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10834, TRN.2019.12.10.01.P

⁴⁶⁹⁶ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10834, TRN.2019.12.10.01.P

government review he said he did not believe he had seen the document, as that would certainly be something he would remember.⁴⁶⁹⁷

3519. Mr Ashton said he had only been shown the Biggin memo and the SDU SWOT analysis for the first time in the weeks prior to his giving evidence to the Commission in December 2019.⁴⁶⁹⁸ Concern had first been raised about the matters referred to in these documents, and that Messrs Overland, Cornelius, Moloney and Ashton had possibly seen them and done nothing about them, when Mr Gleeson reported this to Messrs McRae, Pope and the Chief Commissioner of Police in June 2012, in the course of his work on the Comrie Review.⁴⁶⁹⁹
3520. Mr Ashton said if he had seen the document, which included three references to the potential for OPI review, as well as possibly a judicial review, as the Assistant Director of the OPI, he would have asked questions as to what was going on with the human source that might make it necessary for the OPI to conduct a review, as it suggested something untoward was happening.⁴⁷⁰⁰
3521. Mr Ashton would not hazard a guess as to why Mr Overland would not have shown him the document, saying he did not know if it had been deliberately withheld from him.⁴⁷⁰¹ He said he should have been shown the document.⁴⁷⁰²
3522. Mr Ashton said that given the contents of the SDU SWOT analysis, Messrs Biggin, Moloney, Porter and Overland would have had an obligation to notify the OPI. He believed it should also have been provided to the Chief Commissioner of Police, Ms Nixon.⁴⁷⁰³

Hollowood Evidence

3523. Mr Hollowood had raised the need for an independent review of the case. He felt that there was pressure from the Petra Taskforce Management Committee, in particular, Mr Overland, to press ahead with the case. He was concerned that Mr Overland was making tactical and operational decisions, which he raised with Mr Moloney but felt he could not take any further.⁴⁷⁰⁴
3524. Mr Hollowood recalled generally concerns about Ms Gobbo transitioning from human source to witness. He had a memory of the SDU having the usual concerns they would have about such matters. He recalled he had

⁴⁶⁹⁷ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10828, TRN.2019.12.10.01.P

⁴⁶⁹⁸ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10830, TRN.2019.12.10.01.P

⁴⁶⁹⁹ Exhibit RC1117 Superintendent Stephen Gleeson diary, 4 June 2012, 38, VPL.0099.0021.0039 @.0076

⁴⁷⁰⁰ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10831-10832, TRN.2019.12.10.01.P

⁴⁷⁰¹ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10833, TRN.2019.12.10.01.P

⁴⁷⁰² Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10834, TRN.2019.12.10.01.P

⁴⁷⁰³ Transcript of Chief Commissioner Graham Ashton, 10 December 2019, 10835-10836, TRN.2019.12.10.01.P

⁴⁷⁰⁴ Transcript of Superintendent Paul Hollowood, 12 February 2020, 13870, TRN.2020.02.12.01.P

general reservations which he raised, although he could not say when this was.⁴⁷⁰⁵

3525. Mr Hollowood said he had no memory of the meeting on 5 January 2009, or of any significant issues being discussed. He was confident that if the Biggin memo and SDU SWOT analysis was tabled at the Petra Taskforce Steering Committee meeting, it was in his absence. He explained that he and the investigators would not remain during the entire committee meeting, that every time he went to a meeting he would leave with the investigators after the questioning of them by committee members had finished. The committee members would remain.⁴⁷⁰⁶
3526. Having seen the document in preparation for his evidence to the Commission he said he would have expected that there would have been some in depth discussion with respect to its contents. He said at a minimum there were legal issues raised and legal advice should have been taken. He was of the view that all matters were significant and serious issues which should have been dealt with at a high level. Mr Hollowood said that if he had read the document at the time, he would have questioned how such risks could exist if legal advice had been taken.⁴⁷⁰⁷
3527. Mr Hollowood agreed that in order to understand the nature of the risk to a particular source, the organisation, or to other cases, one would need to have an understanding of the information which might be disclosed should the source become a witness. He said he was surprised to find out that an assessment had been conducted and that he had not be shown it.⁴⁷⁰⁸

Smith Evidence

3528. Mr Smith told the Commission that it was appropriate where a human source was to transition to a witness to understand what the risks are in making such a decision. He was asked what steps he had taken to ensure he knew those risks. He responded that he was expecting to receive updates from the Petra Taskforce Management Committee and information from the SDU.
3529. Mr Smith said that he did not receive any risk assessment, but that they were verbally advised as to risks to Ms Gobbo's safety and as to the difficulty in handling her.
3530. Mr Smith accepted that he would have known that Ms Gobbo had provided police with information about other matters which might be exposed in court proceedings thereafter, and that the nature of risk to Ms Gobbo would be informed by the fact of what type of information might be revealed in court and the identity of those about whom she had been informing. Mr Smith said they were focused on Ms Gobbo's value as a witness against Mr Dale, they were alive to risks to her safety which would be dealt with by her

⁴⁷⁰⁵ Exhibit RC1186 Statement of Superintendent Paul Hollowood, 19 November 2019, 5 [29], VPL.0014.0093.0001 @.0005; Transcript of Superintendent Paul Hollowood, 12 February, 13858-13860, TRN.2020.02.12.01.P

⁴⁷⁰⁶ Transcript of Superintendent Paul Hollowood, 12 February, 13872-13878, TRN.2020.02.12.01.P

⁴⁷⁰⁷ Transcript of Superintendent Paul Hollowood, 12 February, 13875, TRN.2020.02.12.01.P

⁴⁷⁰⁸ Transcript of Superintendent Paul Hollowood, 12 February, 13875, TRN.2020.02.12.01.P

entering the witness protection program, but they did not turn their minds to those other concerns.⁴⁷⁰⁹

3531. Mr Smith said he did not have an independent recollection of the Petra Taskforce Management Committee meeting. Mr Smith said that he was not shown the SDU SWOT analysis prior to his preparing his statement for the Commission.⁴⁷¹⁰
3532. It was put to Mr Smith that there were significant issues occurring at that point in time; Mr Williams and Ms Gobbo had both made statements and they were approaching the point of having sufficient evidence to charge Mr Dale. He agreed it was a busy time. Mr Smith was taken to the Petra Taskforce, Operation Loris Timeline Strategy which indicated that Ms Gobbo had agreed to meet with investigators on 7 January 2009 for discussion and possibly signing her statement. It was pointed out that section contained Mr Overland's handwriting, 'Source to Crown Witness', and 'Immediate relocation'. He said that it was highly likely that he was provided with the endorsement to go ahead and get the statement signed, but he did not have a specific recollection of the meeting.⁴⁷¹¹
3533. Mr Smith said he did not recall any discussion about the types of risks mentioned in the SDU SWOT analysis occurring.⁴⁷¹²
3534. When asked what he would have done if he had have understood the information in the SDU SWOT analysis at the time, Mr Smith said he would have enquired further into risks related to Ms Gobbo's credit and ramifications of her giving evidence against Mr Dale, and following that agreed there would be a need for legal advice. Mr Smith was asked if he had would have had Ms Gobbo sign her statement two days later and said the signing would probably have been delayed pending advice around what was raised in the SDU SWOT analysis.⁴⁷¹³
3535. Mr Smith agreed that he was aware of the potential for the SDU to have a significant amount of material relating to Ms Gobbo's use as a human source. He said he did not enquire as to what that was.⁴⁷¹⁴
3536. Mr Smith was asked why it was not until the time of the subpoena argument during Mr Dale's committal hearing in March 2010 that such issues were explored. He responded that it was because they were not fully briefed on the breadth and extent of Ms Gobbo's informing.
3537. As can be seen below, this could not be said following Mr O'Connell's discussion with Ms Gobbo on 7 January 2009 shortly prior to her signing her statement.

⁴⁷⁰⁹ Transcript of Detective Inspector Steven Smith, 12 February, 13948-13949, TRN.2020.02.12.01.P

⁴⁷¹⁰ Transcript of Detective Inspector Steven Smith, 12 February, 13952-13953, TRN.2020.02.12.01.P

⁴⁷¹¹ Transcript of Detective Inspector Steven Smith, 12 February, 13954-13955, TRN.2020.02.12.01.P

⁴⁷¹² Transcript of Detective Inspector Steven Smith, 12 February, 13956, TRN.2020.02.12.01.P

⁴⁷¹³ Transcript of Detective Inspector Steven Smith, 12 February, 13949-13951, TRN.2020.02.12.01.P

⁴⁷¹⁴ Transcript of Detective Inspector Steven Smith, 12 February, 13957, TRN.2020.02.12.01.P

Conclusion

3538. On the evidence, it is open to the Commissioner to find that Mr Overland was provided with the Biggin memo and SDU SWOT analysis. That is so because:

- they contained an endorsement by Mr Moloney that they were destined for him
- Mr Moloney recalled delivering them to him
- Mr Buick recorded Mr Moloney's delivery of them to him
- they were located with other material received by him around the same time
- Mr Overland's evidence was that he was well aware of all of the issues raised within the documents.⁴⁷¹⁵

3539. On the evidence, it is open to the Commissioner to not accept Mr Overland's evidence that he was not aware that Ms Gobbo's role as a human source had not been disclosed previously. That is so because the issues in the documents, of which Mr Overland was aware, could only persist if Ms Gobbo's role as a human source had not been disclosed previously.

3540. On the evidence, it is open to the Commissioner to find that Mr Moloney was provided with the Biggin memo and SDU SWOT analysis. That is so because Mr Moloney's evidence was that there was discussion at the Petra Taskforce Management Committee meeting on 5 January 2009, concerning the existence of a document setting out the implications of the decision to transition Ms Gobbo from witness to human source.

3541. If so, despite the concerns raised in the SDU SWOT analysis:

- there was no legal advice taken
- there was no action taken by Messrs Overland or Moloney to follow up with Mr Biggin or the SDU as to the concerns raised therein⁴⁷¹⁶

⁴⁷¹⁵ Transcript of Mr Simon Overland, 20 December 2019, 11855-11858, TRN.2019.12.10.01.P

⁴⁷¹⁶ Transcript of Mr Dannye Moloney, 20 February 2020, 14615-14617, TRN.2020.02.20.01.P

- **there was no action taken by Messrs Overland or Moloney to raise matters with the OPI⁴⁷¹⁷**
- **no report was made by Messrs Overland or Moloney to the Chief Commissioner as to the major organisational risk which was crystallised within the Biggin memo and the SDU SWOT analysis.**

3542. **If so, these were very serious failings on their part.**

3543. The evidence indicates that the document was not provided to Mr Ashton, which appears to have been a deliberate decision.

3544. **However, on the evidence it is open to the Commissioner to find that given his role at the relevant time was Assistant Director of the Office of Police Integrity, Mr Ashton failed to discharge the function of his role to provide independent oversight of police integrity by failing to inquire into and/or failing to cause an investigation into the relationship between Ms Gobbo and Victoria Police. That is so because Mr Ashton sat on the Petra Taskforce Management Committee, apparently wearing dual hats of police regulator, oversighting the integrity of the investigation and co-investigator.**

3545. **Whilst he may not have been aware of the extent of Ms Gobbo's assistance to Victoria Police as a human source, he was aware that she was a criminal defence barrister and was a human source, which was, it is submitted, an extraordinary dual role for a barrister to undertake. He was aware that Ms Gobbo had been a human source, managed by the SDU, for a lengthy period of time. He was aware that those managing her were raising concerns regarding her. He was aware that human source management was the major risk faced by Victoria Police, and the focus of most OPI investigations.**

5-6 January 2009 – Discussions about Gobbo Statement

3546. On 5 January 2009, Ms Gobbo spoke to Mr Green. Ms Gobbo raised the need for Mr O'Connell to know more of her background. Mr Green advised that Mr Sandy White would do this.⁴⁷¹⁸

3547. Following this, Mr Sandy White, who was on leave, rang Ms Gobbo. They discussed whether Ms Gobbo would sign the statement, with Mr Sandy White indicating it was a matter for Ms Gobbo. Ms Gobbo expressed concerns about her business if she did sign the statement. They discussed the possibility of Ms Gobbo being compelled to make the statement to provide an explanation to her clients and associates. Ms Gobbo then expressed a concern that her draft statement showed she had worn a

⁴⁷¹⁷ Transcript of Mr Dannye Moloney, 20 February 2020, 14619-14620, TRN.2020.02.20.01.P

⁴⁷¹⁸ Exhibit RC0281 ICR2958 (052), 5 January 2009, 806, VPL.2000.0003.1546

recording device when she had recently met with Mr Dale. Mr Sandy White advised that this could be changed and omitted if she had not yet signed the statement and the prosecution could then claim privilege on the manner of the recording on the basis that it disclosed methodology. Ms Gobbo agreed with this course and Mr Sandy White indicated he would speak with the investigators.⁴⁷¹⁹

3548. Following this Mr Sandy White rang Mr Smith and updated him on the likelihood of Ms Gobbo making a statement, indicating that he believed she would but that she had concerns for her safety. He told Mr Smith that consideration should be given to removing the sentence from Ms Gobbo's statement that she proactively tape-recorded Mr Dale and claiming it as a methodology issue.⁴⁷²⁰

3549. It was put to Mr Sandy White during his examination, that the suggestion by him to alter Ms Gobbo's statement was a suggestion by him to conceal the reality of the situation that Ms Gobbo had deliberately recorded the conversation with Mr Dale. Mr Sandy White said that was a possibility, and he could not assist further than what he had recorded in his diary. Mr Sandy White was then shown the further entry in his diary relating to his conversation with Mr Smith:

MR WINNEKE: You also advised consideration should be given to removing the sentence from the statement regarding Ms Gobbo proactively recording Dale, do you see that?

MR SANDY WHITE: Yes.

MR WINNEKE: Now that confirms the proposition that I put to you before, that you were in effect suggesting that what should occur is that in effect history should be changed in the sense that you take that out "because we don't want it to be known that Ms Gobbo proactively recorded Mr Dale", do you see that?

MR SANDY WHITE: Yes.

MR WINNEKE: And then you can use the convenience of a public interest immunity claim to in effect conceal that from the court, or at least conceal it from the defence, do you see that?

MR SANDY WHITE: Yes.

MR WINNEKE: So what you're saying is, "Well, look, the fact that Ms Gobbo carries with her a recording device, we're going to use that as a device to withhold that information from the court, or at least from the defence". That's what you're suggesting, isn't it?

MR SANDY WHITE: That seems to be the case.

⁴⁷¹⁹ Exhibit RC0305 Mr Sandy White diary, 5 January 2009, 527, RCMP.0092.0001.0001 @.0527

⁴⁷²⁰ Exhibit RC0305 Mr Sandy White diary, 5 January 2009, 527, RCMP.0092.0001.0001 @.0527

MR WINNEKE: That's a pretty unethical suggestion, I would suggest to you, Mr White?

MR SANDY WHITE: Well, on the face of it I would agree with you and I can't give you an explanation as to why I said that.⁴⁷²¹

3550. On 6 January 2009, Ms Gobbo was speaking with Mr Green. She indicated her concern over the way the tape-recording of Mr Dale was worded in her statement and said that Messrs Sandy White and O'Connell needed to talk about matters soon.
3551. On 7 January 2009, Mr Smith spoke with Mr O'Connell during the morning. He then spoke with Mr Sandy White telling him that Mr O'Connell was currently meeting with Ms Gobbo, and that he was happy to make the change to the statement but there might be continuity issues.⁴⁷²²
3552. It is apparent that Mr Sandy White was not the only police member willing to contemplate making such a change to Ms Gobbo's statement.
3553. It is submitted that it must have been decided that continuity issues made it too difficult to make the change suggested by Mr Sandy White as Ms Gobbo's deliberate recording of Mr Dale remained a feature of the statement she went on to sign.

7 January 2009 – O'Connell Conversation with Gobbo Prior to Signing

3554. On 7 January 2009, at 7:45am Mr Smith spoke with Mr O'Connell in relation to his meeting with Ms Gobbo that morning.⁴⁷²³
3555. As is apparent above, in the leadup to this conversation Ms Gobbo had asked that Mr O'Connell be made aware of her history with Victoria Police. When Mr O'Connell met with Ms Gobbo he recorded his conversation with her.⁴⁷²⁴
3556. Their discussion included Ms Gobbo's informing Mr O'Connell of the extent of her history as a human source with Victoria Police, including:
- that Ms Gobbo had been working with Sandy White and the SDU since September 2005
 - the level of contact she had had with the SDU since that time, including daily contact for a minimum of 40 minutes and up to 2 hours, and that the amount of material held by the SDU which could 'come out' was enormous
 - her eligibility for a reward

⁴⁷²¹ Transcript of Mr Sandy White, 19 August 2019, 4888, RC_MPI_19Aug19_provisional

⁴⁷²² Exhibit RC1192 Detective Inspector Steven Smith diary, 7 January 2009, 269 RCMP1.0126.0001.0007 @.0269; Exhibit RC0305 Mr Sandy White diary, 7 January 2009, 528, RCMP1.0092.0001.0001 @.0528

⁴⁷²³ Exhibit RC1192 Detective Inspector Steven Smith diary, 7 January 2009, 270 RCMP1.0126.0001.0007 @.0270

⁴⁷²⁴ Exhibit RC1348 Transcript of conversation between Shane O'Connell and Nicola Gobbo, 7 January 2009, VPL.0100.0237.0438; Exhibit RC1348 Transcript of conversation between Shane O'Connell and Nicola Gobbo, 7 January 2009, 319, VPL.0100.0001.3179 @.3497

- her description of her work with the SDU as her 'second voluntary job'
- her having 'confided' in Bateson prior to dealing with the SDU
- the way in which she came to be dealing with the SDU; she had represented Mr Bickley who had been working for Tony Mokbel, and her dealings with Mr Rowe
- that she had gone from wanting to be part of the 'crooks' to being with VicPol, and the SDU 'filling the gap'
- that her involvement with Victoria Police was initially going to be confined to the Mokbel family but it had snowballed in a massive way
- that her involvement with Victoria Police included various people including the Mokbels, Mr Cooper, Mr Thomas, Mr Gatto, and those involved in the recent container shipment such as Messrs Higgs, Karam, Barbaro and the Griffiths people
- that when she started dealing with Mr Sandy White, she said, 'Do you want to unravel the Mokbels, this is the way to do it'
- that she had spent a lot of time with Mr Thomas before he became a witness and had 'worked on' him so the police were able to know in advance what he could say and the sorts of things he would be able to give evidence about
- that if it were to be subpoenaed, there might be 35 hours of conversations with the SDU about Mr Thomas
- that she had represented many people where she had a conflict of interest as she was unable to explain to the client or the client's solicitor why she had a conflict of interest
- that Ms Gobbo had acted for Mr Faruk Orman when she had a conflict, as she had represented Mr Thomas who had become a witness against Mr Orman
- that the seizure of the 'biggest ever importation in the world' the previous year, would not have been known about but for her providing information to Victoria Police
- that Messrs Flynn, Bateson, Kelly and Rowe were aware of her involvement as a human source
- talking about her experience at the OPI and potential issues with the transcript – whereupon Mr O'Connell's response was that he would try and arrange to read it, then give it back so it would not be captured in any subpoena to VicPol
- issues about subpoena management given her history as a human source, including that if Mr O'Connell saw any subpoenas with the words 'informers', where the defence were casting a net trying to identify the source of information he would tell them 'nice try, bugger off'
- Ms Gobbo's fear of being asked questions which might reveal her human source status in the witness box, to which Mr O'Connell

indicated that they might have to put some work into structuring an answer that leaves it very vague and open.

3557. Ms Gobbo and Mr O'Connell also discussed matters relevant to the Dale murder prosecution, including Ms Gobbo's dealings with the SDU in relation to Mr Dale, such as:

- the likelihood that Mr Dale would claim their relationship was the subject of legal professional privilege
- Ms Gobbo's instructions from the SDU in relation to Mr Dale, that their relationship might be useful so that rather than tell him to 'fuck off and die' she should keep up some level of contact with him
- that she had seen him on three to four occasions and Mr Sandy White would have the details of all her contacts with Mr Dale
- that she had previously provided a copy of Mr Dale's instructions, being privileged notes he made whilst in gaol, to Mr Ryan through the SDU
- that she had told Mr Davey some months previously that she had given Mr Dale's notes to Mr Ryan, which wasn't a lie, but was a way to avoid telling him about her association with the SDU.

3558. This was not the only conversation in which Ms Gobbo discussed with Mr O'Connell matters relevant to her history with the SDU.⁴⁷²⁵

3559. In his first statement to the Commission, Mr O'Connell did not draw attention to his having received this information from Ms Gobbo. His reference to this conversation was contextualised as his dealing with concerns about her safety, relocation, [REDACTED] and the impact on her financial situation. He refuted an assertion which was later made by Ms Gobbo in civil proceedings that he had told Ms Gobbo words to the effect that she 'would be looked after' or 'no worse off financially'.⁴⁷²⁶

3560. Mr O'Connell was taken through this conversation when he gave evidence at the Commission. The Commission had two versions of the transcript, one prepared more recently, and another which had been prepared around the time of the Dale Committal which Mr O'Connell had been responsible for editing prior to its release to defence.⁴⁷²⁷

3561. Mr O'Connell was asked if he had been concerned to learn that Ms Gobbo had previously provided Mr Dale's privileged information to police in circumstances where they were anticipating his defence to be that he had a privileged relationship with Ms Gobbo. He responded, 'That would have got my attention, I suppose, would be the way I'd put it.' He did not recall doing anything about it,⁴⁷²⁸ such as checking with the SDU if they had any material

⁴⁷²⁵ See for example: Exhibit RC1350 Transcript of conversation between Mr Shane O'Connell and Ms Nicola Gobbo, 1 February 2009, VPL.0100.0237.6854

⁴⁷²⁶ Exhibit RC1305 Statement of Mr Shane O'Connell, 5 December 2019, 13-14 [84-86], VPL.0014.0115.0001 @0013-.0014

⁴⁷²⁷ Transcript of Mr Shane O'Connell, 21 February 2020, 14781-14783, TRN.2020.02.21.01.P

⁴⁷²⁸ Transcript of Mr Shane O'Connell, 21 February 2020, 14786, TRN.2020.02.21.01.P

that could support the proposition that Ms Gobbo might have a legal relationship with Mr Dale.⁴⁷²⁹

3562. Mr O'Connell accepted that he had been told very, very concerning things in the course of his conversation with Ms Gobbo. He was asked if he felt the need to consider those matters further before proceeding to have her sign a statement. He did not.⁴⁷³⁰
3563. When asked why he would not have taken these concerns to his superiors, Mr O'Connell laid the responsibility elsewhere. He said that Ms Gobbo was 'effectively unloading' in the context of 'safety and security issues' which were matters he was not directly involved in. He said it was his understanding that senior executive members of the organisation who were on the Petra Taskforce Management Committee were aware of her role so he formed the view it was being dealt with elsewhere.
3564. When asked about this awareness, he said he assumed knowledge by them given Ms Gobbo was a registered human source which was a significant matter. He said he also assumed they were aware of the material raised by Ms Gobbo in the conversation.⁴⁷³¹
3565. When asked why these matters were not dealt with in his first statement to the Commission, Mr O'Connell replied that he was not aware they were relevant to the Commission.⁴⁷³²
3566. It was put to Mr O'Connell that he was aware that if the matters contained in the conversation between he and Ms Gobbo had been disclosed to the defence, the case against Mr Dale would have been seriously compromised. Mr O'Connell responded that was not for him to say, it was ultimately a decision for a senior Crown Prosecutor to assess the strength of the evidence. He was asked whether he provided the material to the DPP. His answer was 'I don't recall'.⁴⁷³³
3567. Mr O'Connell was taken to another recorded conversation he had with Ms Gobbo on 1 February 2009, in which she told him about how she had ethically tried to limit the information she provided to the SDU to non-privileged material, but over time she was breaching that rule as it was too hard to try and tell half the story. She told him she was concerned about such matters coming out in evidence and the possibility she might be sued.⁴⁷³⁴ Mr O'Connell said he could not recall the conversation or his reaction to it. He again said that he may have been of the view that others were dealing with it.⁴⁷³⁵
3568. Whilst perhaps not given the level of detail of Ms Gobbo's involvement with the SDU as Mr O'Connell, his line superior, Mr Smith, also had an awareness of Ms Gobbo's status as a human source by this time. He was

⁴⁷²⁹ Transcript of Mr Shane O'Connell, 21 February 2020, 14794, TRN.2020.02.21.01.P

⁴⁷³⁰ Transcript of Mr Shane O'Connell, 21 February 2020, 14787, TRN.2020.02.21.01.P

⁴⁷³¹ Transcript of Mr Shane O'Connell, 21 February 2020, 14787-14788, TRN.2020.02.21.01.P

⁴⁷³² Transcript of Mr Shane O'Connell, 21 February 2020, 14788, TRN.2020.02.21.01.P

⁴⁷³³ Transcript of Mr Shane O'Connell, 21 February 2020, 14790, TRN.2020.02.21.01.P

⁴⁷³⁴ Exhibit RC1352 Transcript of conversation between Shane O'Connell and Nicola Gobbo, 1 February 2009, 96, VPL.0100.0237.6854 @.6949

⁴⁷³⁵ Transcript of Mr Shane O'Connell, 21 February 2020, 14790, TRN.2020.02.21.01.P

aware she had spoken to the SDU about Mr Dale previously. He took no steps to find out what she had previously told the SDU about him.⁴⁷³⁶

3569. **On the evidence, it is open for the Commissioner to find that Victoria Police's plan for Ms Gobbo's handling as a witness involved not disclosing to the court, the prosecution or the defence, her role as a human source. Other than the foregoing, this is the only way those with knowledge of her conduct could have pressed on so confidently.**

7 January 2009 – Gobbo Signed Statement in front of Davey

3570. At the conclusion of Ms Gobbo's discussion with Mr O'Connell, Mr Davey attended and witnessed her sign the statement.⁴⁷³⁷

3571. Ms Gobbo's statement included that:

- sometime after Mr Ahmed was granted bail on 22 December 2003 he gave her phones with numbers registered in names other than her or his own in order to communicate with her privately, which she believed he obtained illegitimately through a connection at a phone shop
- after obtaining these phones Mr Dale asked if she had access to other mobile numbers to contact her on, and she gave him the phone numbers for the phones Mr Ahmed had given her. Mr Dale provided her with a different mobile number for Ms Gobbo to contact him on. She would update him each time Mr Ahmed provided a new phone
- on the night of 27 February 2004, she met with Mr Dale. The police played her recordings of two phone calls with Carl Williams. In the first she indicated that Carl Williams was supposed to catch up with his 'other advisor', a reference to Mr Dale. In the second, Mr Dale came onto the phone and spoke with Carl Williams
- on the night of 2 May 2004, she met with Mr Dale. The police played her a recording of a call between George Williams and Mr Dale. She believes that during this meeting Mr Dale asked her to pass a message to Carl Williams asking him to contact him to arrange to meet
- on 4 May 2004, she received a call from Carl Williams and they arranged to meet the following day for a number of legal reasons unrelated to Mr Dale
- on 5 May 2004, she met with Carl and George Williams at a café in the court precinct. During the meeting Ms Gobbo passed on the message from Mr Dale requesting contact to arrange a meeting
- Ms Gobbo had no specific memory of providing Carl Williams with an address or phone number of Mr Dale on that date. She recalled telling

⁴⁷³⁶ Transcript of Detective Inspector Steven Smith, 12 February 2020, 13931-13932, TRN.2020.02.12.01.P

⁴⁷³⁷ Exhibit RC0229 Statement of Ms Nicola Gobbo, 7 January 2009, VPL.0002.0001.1456; Transcript of Mr Shane O'Connell, 21 February 2020, 14786-14787, TRN.2020.02.21.01.P

him at some stage that Mr Dale was working on a building site in the western suburbs somewhere

- she didn't know why Mr Dale wanted to meet Carl Williams and it was not her business to ask
- on 30 November 2008, she had received an SMS from Mr Dale asking to catch up. She responded she was unavailable and subsequently they arranged to meet when he came back to town the following weekend
- on 7 December 2008, she met with Messrs O'Connell and Davey from the Petra Taskforce and was given a covert recording device which was activated. She then met with Mr Dale and had a conversation with him which was recorded. Following the conversation she again met with Messrs O'Connell and Davey and the device was deactivated
- at no time during the meeting or in the arrangement of the meeting was it her opinion that the purpose of the meeting was for the provision of legal advice by her.

8 January 2009 – Potential for SDU to Continue to Manage Gobbo

3572. Mr Biggin was anticipating a request that the SDU continue to manage Ms Gobbo upon her having become a witness. He briefed Mr Porter, who was at the time Acting Commander of I&CS on the matter. Mr Porter had agreed that they should not agree to such a request. Mr Biggin laid out in an email to members of the SDU his reasoning, which had included:

- Ms Gobbo had not disclosed all her relationship with Mr Dale in her dealings with the SDU
- if they continued the relationship, they would have to strongly put such matters to her which would damage the relationship
- they needed to protect the value of Ms Gobbo as a witness
- they were mindful that Ms Gobbo was manipulative and would play the Petra Taskforce off against the SDU
- the Petra Taskforce were pre-warned of management issues associated with Ms Gobbo, and they had a paper and a risk assessment (the SWOT analysis) to that effect.⁴⁷³⁸

12 January 2009 – Last Debrief with Gobbo

3573. On 12 January 2009, Ms Gobbo met with Messrs Sandy White, Green and Fox for one last time.⁴⁷³⁹

3574. During the conversation Ms Gobbo reported that she had signed the statement because she got all the promises she had wanted from Mr O'Connell.⁴⁷⁴⁰

⁴⁷³⁸ Exhibit RC0584 Email chain involving Mr Anthony (Tony) Biggin, Mr Black, Mr Richards, Inspector Andrew Glow and Mr Sandy White, 8 January 2009, VPL.6025.0003.0586; Exhibit RC0284 SML2958, 8 January 2009, 63-64, VPL.2000.0001.9298-9299.

⁴⁷³⁹ Exhibit RC0281 ICR2958 (053), 12 January 2009, 823-832, VPL.2000.0003.1563-1572.

⁴⁷⁴⁰ Exhibit RC0281 ICR2958 (053), 12 January 2009, 824, VPL.2000.0003.1564.

3575. During conversation about witness protection, Ms Gobbo said she had looked at the *Witness Protection Act 1991* (WPA) and she definitely wanted the protection afforded to witnesses under that Act.⁴⁷⁴¹ As became apparent, Ms Gobbo was of the view that a claim of public interest immunity in relation to her assistance to the police would have the effect of exposing her as a human source. She was of the view that the provisions of this Act would prevent the need for disclosure of her role as a human source even to the court and thus there would be no need for a claim of public interest immunity.
3576. Ms Gobbo was of the view that she could potentially continue to practice as a lawyer. She had spoken to a number of solicitors about having made a statement, although not the specifics. She thought it unlikely she would remain in the same barristers' chambers. She had also spoken with Mr O'Connell about the possibility of working for an organisation like [REDACTED], which he said he would look into, and of going to do [REDACTED] course [REDACTED].⁴⁷⁴² There was discussion about Ms Gobbo taking a number of months of as a 'sabbatical' and this providing a good cover story and lead the way to a change in her life.⁴⁷⁴³ This was a complete turn around from 16 September 2005 when Mr Sandy White indicated that if Ms Gobbo went away for six months she would not be dealing with the issues and would lead to assumptions by Tony Mokbel and others.⁴⁷⁴⁴
3577. Ms Gobbo spoke about laying down a cover story prior to Mr Dale's arrest so that she could tell people like Messrs Gatto and Karam why she had to make a statement in way that they would still consider her trustworthy.⁴⁷⁴⁵
3578. Ms Gobbo spoke about her disappointment with the [REDACTED] to that point. Ominously, when the SDU spoke positively of the program, Ms Gobbo responded that she was [REDACTED] and that [REDACTED].⁴⁷⁴⁶
3579. The ICR recorded discussion about the new process for dealing with Ms Gobbo and the reasons for it, including:⁴⁷⁴⁷

Explained to HS that the biggest threat in any brief is investigator's notes. By us stepping back, then this can never come out in court as the investigators (except Shane) know nothing about HS.

Confirmed with HS that Cameron Davey knows nothing about her past. We want to keep it this way. Best way now is for us to step back to prevent anything coming out in the discovery process. HS understands this.

HS undertakes not to tell anyone either about her life with us. She understands good reasons why.

⁴⁷⁴¹ Exhibit RC0281 ICR2958 (053), 12 January 2009, 825, VPL.2000.0003.1565

⁴⁷⁴² Exhibit RC0281 ICR2958 (053), 12 January 2009, 826, 830, VPL.2000.0003.1566, 1570

⁴⁷⁴³ Exhibit RC0281 ICR2958 (053), 12 January 2009, 829, VPL.2000.0003.1569

⁴⁷⁴⁴ Exhibit RC0267 Transcript of conversation between Nicola Gobbo, Sandy White, Peter Smith, Paul Rowe and Steve Mansell, 16 September 2005, 116, VPL.0005.0037.0014 @ 0.129

⁴⁷⁴⁵ Exhibit RC0281 ICR2958 (053), 12 January 2009, 825-826, VPL.2000.0003.1565-1566

⁴⁷⁴⁶ Exhibit RC0281 ICR2958 (053), 12 January 2009, 827, VPL.2000.0003.1567

⁴⁷⁴⁷ Exhibit RC0281 ICR2958 (053), 12 January 2009, 827, VPL.2000.0003.1567

Maintaining relationship with us now only increases the risk of the source's informer identity coming out.

Therefore explained to HS that we are pulling out.

Shane will be a point of liaison for us to check on you.

3580. Ms Gobbo expressed some 'professional' informer regrets as she left her 'voluntary second job':

- she had not found Mr Karam's inside man at Customs⁴⁷⁴⁸
- that Mick Gatto and the Carlton crew was a work in progress.⁴⁷⁴⁹

13-14 January 2009 – Deactivation of Gobbo

3581. On 13 January 2009, Mr Fox submitted a deactivation form in respect of Ms Gobbo.⁴⁷⁵⁰ It was noted that:

- Ms Gobbo had made a statement to the Petra Taskforce in relation to the murder of the Hodsons and was now to be managed by that Taskforce
- Ms Gobbo had been active for three years and provided high level intelligence on major Victorian criminals and organised crime syndicates
- once exposed as a witness and put through the court process, there would be no further potential for her use as a source by Victoria Police as the safety risks would be too high.

3582. In a similar manner to the risk assessment in relation to a source, the deactivation form addressed various categories of risks and associated control measures.

3583. One was risk to Victoria Police, which listed the risk of criticism and adverse publicity for Victoria Police if Ms Gobbo was not properly managed and protected now she was a Crown witness. The associated control measure was her assessment for entry into the Witness Protection Program as soon as possible.

3584. Another was the risk to information. Mr Black identified that intelligence obtained from Ms Gobbo over the previous three years could be exposed and linked to her, especially during court discovery processes of the pending Petra prosecutions. The associated control measure stated:

To date SDU has played a minimal role in tasking of source for the Petra investigation that lead to source becoming a witness. Recommend management of source be transferred to Petra Task Force to minimise any link to SDU. SDU to have active input in the dissemination of any information by Vic Pol that relates to the source during the court discovery process.

⁴⁷⁴⁸ Exhibit RC0281 ICR2958 (053), 12 January 2009, 829, VPL.2000.0003.1569

⁴⁷⁴⁹ Exhibit RC01433 Letter from Ms Gobbo to Mr Stephen Fontana, 30 June 2015, 8, COR.1000.0003.0100 @.0008

⁴⁷⁵⁰ Exhibit RC0520 Human Source Deactivation Form, 13 January 2009, 24-25, VPL.0100.0121.0155 @.0178-.0179

3585. The form noted that a debrief had occurred between Ms Gobbo and her handlers and controller the previous day.
3586. Mr Sandy White signed the form as the Controller. Mr Glow signed the form as the OIC. On 14 January 2009, Mr Porter signed the form as the LSR.
3587. With that, Ms Gobbo was deactivated as a human source.

Discussion on 12 January 2009

3588. On 12 January 2009, a Petra Taskforce Management Committee meeting took place, attended by Messrs Overland, Moloney, Hollowood, Smith and Wilkins. The only record of the Petra Taskforce Weekly update provided to the Commission was contained in the electronic interpose file.⁴⁷⁵¹ This included:
- an indemnity had been obtained from the DPP for Carl Williams in respect of his involvement in the Hodson murders
 - it was intended to meet with and request he sign statements on 14 January 2009
 - Ms Gobbo had signed her statement on 7 January 2009, and the [REDACTED] had been prepared and was ready to be submitted.
3589. Mr Hollowood recorded that there was discussion of timeframes for progressing the matter and 'risk mitigation',⁴⁷⁵² Mr Hollowood was aware Ms Gobbo had been a human source handled by the SDU. He was asked, given she had been informing against the likes of Messrs Mokbel, Karam and Gatto, whether any consideration was given in the discussion about the nature of the threat to Ms Gobbo in order to understand the risk. He said those matters were not considered.⁴⁷⁵³

22 January 2009 – [REDACTED]

3590. On 22 January 2009, a Petra Taskforce Management Committee meeting took place.⁴⁷⁵⁴ The weekly update [REDACTED]
3591. Mr Overland's Petra folder included a copy of a letter in which Ms Gobbo had provided a document to Victoria Police on 19 January 2009.⁴⁷⁵⁵ The document included a section dealing with Ms Gobbo's financial situation and

⁴⁷⁵¹ Exhibit RC1770 Petra Taskforce Weekly Update, 12 January 2009, 322-327, VPL.0100.0020.5275 @.5596-.5601.

⁴⁷⁵² Exhibit RC1188 Superintendent Paul Hollowood diary, 31 December 2008, 167, RCMP.0126.0001.0008 @.0167

⁴⁷⁵³ Transcript of Superintendent Paul Hollowood, 12 February, 1381-2 TRN.2020.02.12.01.P.

⁴⁷⁵⁴ RC1084 Mr Simon Overland Petra Taskforce Folder 2, 22 January 2009, 547-553, VPL.0100.0129.0001, 0547-53; Exhibit RC1770 Petra Taskforce Weekly Update, 22 November 2008, 86-93, VPL.0100.0001.5402 @.5487-5494.

⁴⁷⁵⁵ RC1084 Mr Simon Overland Petra Taskforce Folder 2, 22 January 2009, 554-560, VPL.0100.0129.0001 @.0554-.0560.

[REDACTED]

3592. Mr Overland made a notation at the top of the first page of this document indicating the involvement of Mr Findlay McRae, who was the Director of Legal Services for Victoria Police, and that Mr David Ryan, a solicitor with the VGSO, was drafting an agreement.
3593. Mr Cornelius said he was told nothing of the process which occurred for Ms Gobbo to become a witness upon his return from leave. He had gone on leave understanding that there were statements to be taken from both Ms Gobbo and Mr Carl Williams, but he had no idea of any resistance to Ms Gobbo becoming a witness.⁴⁷⁵⁶ Mr Cornelius said that if there had been debate going on with members of the committee about problems with transitioning Ms Gobbo from human source to witness, it would have been a matter he had an interest in. He agreed he would have wanted a risk assessment carried out.⁴⁷⁵⁷
3594. On 23 January 2009, Mr McRae engaged the VGSO in relation to the matter. The file note taken by the solicitor, Stephen Lee indicated:

[REDACTED]

Dave to work
Super sensitive
Time critical – next week or so
Geoff Always instructor
*Fin to be involved from police*⁴⁷⁵⁸

3595. Mr McRae could not recall his discussions about the issue. He believed he would not have been given the identity of Ms Gobbo given it was a witness security matter.⁴⁷⁵⁹
3596. Mr McRae told the Commission that he regarded the use of a barrister as an informer as unthinkable.⁴⁷⁶⁰ Mr McRae suggested when he had found out that Victoria Police had been using Ms Gobbo, a criminal defence barrister, as an informer, in June 2010, he ‘had them all lined up’ suggesting he had engaged in an investigation of those involved.⁴⁷⁶¹ This had not occurred.

February 2009 – Dale Arrest and Remand

3597. On 9 February 2009, a Petra Taskforce Management Committee meeting took place, at which plans for Mr Dale’s arrest were discussed. These plans

⁴⁷⁵⁶ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11038, 12371, TRN.2019.12.12.01.P.

⁴⁷⁵⁷ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11038-11039, TRN.2019.12.12.01.P.

⁴⁷⁵⁸ Exhibit RC0954, Statement of Ms Marlo Baragwanath, 13 June 2019, 11 [32], RCMP1.0035.0001.0001; Exhibit RC1064 File Note of discussion between Mr Findlay McRae and Mr Stephen Lee, 23 January 2009, VGSO.2000.1369.0565; Exhibit RC1065 Letter from Mr Stephen Lee to Mr Findlay McRae, 23 January 2009, VGSO.2000.1369.0561.

⁴⁷⁵⁹ Transcript of Mr Findlay McRae, 30 January 2020, 12635-12636, TRN.2020.01.30.01.P.

⁴⁷⁶⁰ Transcript of Mr Findlay McRae, 30 January 2020, 12632, TRN.2020.01.30.01.P.

⁴⁷⁶¹ Transcript of Mr Findlay McRae, 30 January 2020, 12636-12637, TRN.2020.01.30.01.P.

included making suppression order applications. Cornelius made a handwritten note that this would relate to Mr Carl Williams, not Ms Gobbo.⁴⁷⁶²

3598. On 13 February 2009 Mr Dale was arrested.⁴⁷⁶³

3599. A Petra Taskforce Management Committee meeting took place on 16 February 2009, at which this arrest was reported, along with [REDACTED]

[REDACTED].⁴⁷⁶⁴

2 March 2009 – Overland Appointed Chief Commissioner

3600. On 2 March 2009, Mr Overland became Chief Commissioner of Police. Ms Nixon was initially set to retire in late 2009, but departed earlier at the request of the Victorian Government to take on responsibility for the Victorian Bushfire Reconstruction and Recovery Authority.

2 March 2009 – Gobbo Refusing to Enter Witness Protection

3601. On 2 March 2009, a meeting took place between members including Messrs Biggin, Black, Sandy White, O'Connell and Smith.

3602. At the time an affidavit opposing Mr Dale's bail application was due to be filed. The affidavit identified Ms Gobbo as a witness, although not as a human source. There was a long discussion about how they could ensure Ms Gobbo's safety in circumstances where she would not enter the Witness Protection Program. It was agreed they would bring two full time witness managers in to manage Ms Gobbo.⁴⁷⁶⁵

3603. Later that day a further meeting took place involving Messrs Moloney, Biggin, Black, Smith, O'Connell, Wilkins and another. The managers of Ms Gobbo were agreed, who would report to Mr O'Connell.⁴⁷⁶⁶

3604. Ms Gobbo was introduced to her new managers but continued to contact Mr O'Connell directly.⁴⁷⁶⁷

3605. Efforts to convince Ms Gobbo to join the Witness Protection Program continued.

March 2009 – Dale Bail application

3606. On 13 March 2009, Mr Dale's application for bail took place before Warren CJ.⁴⁷⁶⁸

⁴⁷⁶² Exhibit RC1006 Petra Taskforce Weekly Update, 9 February 2009, 48-49, VPL.0100.0001.5402 @.5449-.5450

⁴⁷⁶³ Exhibit RC1006 Petra Taskforce Weekly Update, 16 February 2009 (incorrectly titled 9 February 2009), 57, VPL.0100.0001.5402 @.5457

⁴⁷⁶⁴ Exhibit RC1006 Petra Taskforce Weekly Update, 16 February 2009 (incorrectly titled 9 February 2009), 57, VPL.0100.0001.5402 @.5457

⁴⁷⁶⁵ Exhibit RC1305 Statement of Mr Shane O'Connell, 5 December 2019, 20 [123], VPL.0014.0115.0001 @0020

⁴⁷⁶⁶ Exhibit RC1305 Statement of Mr Shane O'Connell, 5 December 2019, 20 [125], VPL.0014.0115.0001 @0020

⁴⁷⁶⁷ Exhibit RC1305 Statement of Mr Shane O'Connell, 5 December 2019, 20 [127], VPL.0014.0115.0001 @0020

⁴⁷⁶⁸ *DPP v Dale* [2009] VSC 107.

3607. On 16 March 2009, a Petra Taskforce Management Committee meeting took place. It is apparent that Messrs Overland, Cornelius and Ashton were all present at this meeting.⁴⁷⁶⁹ The weekly update reported on Mr Dale's bail application, including that:

- verbal evidence had been given by Messrs Solomon and Davey and both had been cross-examined
- arguments put forward by Mr Dale included the weakness of the prosecution case and pointed to the lack of credibility of Carl Williams and the inadmissibility of the tape recording with Ms Gobbo because of legal professional privilege
- Warren CJ had indicated she would listen to the tape and read Ms Gobbo's statement before she made her decision.⁴⁷⁷⁰

3608. In relation to Ms Gobbo, Cornelius noted that '*others want access to her as a witness: not yet.*'⁴⁷⁷¹

3609. Mr Dale's bail application was refused on 26 March 2009. In her reasons, Warren CJ stated:

The question of the strength of the prosecution case is not one I need to decide. I could not be satisfied at this time that the case is weak. I have listened, at the urging of counsel for the applicant and with the applicant's consent, to the covert recording of a critical conversation between witness F and the applicant. I am informed that the issue of legal professional privilege and the admissibility of the evidence will be strongly contested. That is a question for another time. However, I observe that the fact that a statement is made by an individual to a lawyer does not, of itself, render the statement subject to privilege. Much more is required. Having heard the recording, which is of some duration, I would not make any observation as to the prosecution case other than to observe I cannot be satisfied it is a weak case.

3610. On 31 March 2009, Mr Overland chaired the Petra Taskforce Management Committee meeting for the last time. Following this, Mr Cornelius took the role of Chairperson.⁴⁷⁷²

⁴⁷⁶⁹ Exhibit RC1008 Petra Taskforce Weekly Update, 16 March 2009, 26-33, VPL.0100.0001.5402 @.5427-.5434

⁴⁷⁷⁰ Exhibit RC1008 Petra Taskforce Weekly Update, 16 March 2009, 26-33, VPL.0100.0001.5402 @.5427-.5434

⁴⁷⁷¹ Exhibit RC1008 Petra Taskforce Weekly Update, 16 March 2009, 26-33, VPL.0100.0001.5402 @.5427-.5434

⁴⁷⁷² Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 15 [94] VPL.0014.0057.0001 @.0015

CHAPTER 18 – 2009 TO 2010 – THE FIRST GOBBO WITNESS PHASE

March 2009 – Briars Taskforce – Phase 2

3611. The Briars Taskforce investigation had petered out in late 2008, and investigators returned to their squads.⁴⁷⁷³
3612. On 16 March 2009, a Briars Board of Management meeting took place. Attendees included Messrs Overland, Ashton, Cornelius, Wilson and Waddell. At the meeting, it was decided that the Briars Taskforce should be reconvened as a potential witness had come forward.⁴⁷⁷⁴
3613. Mr Cornelius wrote notes from the meeting on the back of his Petra Taskforce Management Committee meeting weekly update, indicating there was discussion about obtaining a statement from Ms Gobbo in relation to Mr Waters. He had already noted in the Petra Taskforce weekly update that *'others want access to her as a witness: not yet.'*⁴⁷⁷⁵

March 2009 – Briars Wants a Statement from Gobbo

3614. On 23 March 2009 Mr Waddell spoke to Mr O'Connell, who was in charge of Ms Gobbo's management, about the Briars Taskforce obtaining a statement from Ms Gobbo. Mr O'Connell told Mr Waddell that Ms Gobbo would make a statement to them at an appropriate time.⁴⁷⁷⁶
3615. On 25 March 2009, Mr Waddell emailed Mr Wilson in relation to the Briars Taskforce Supplementary Investigation Plan. In the email he referred to a conversation he'd had with Mr Sandy White, including that:
- Mr Sandy White had expressed the view that Ms Gobbo would be interested in making a statement to the Briars Taskforce
 - Mr Sandy White did not think Ms Gobbo could provide evidence of admissions, which was different to the recollection of those at the Briars Taskforce
 - Mr Sandy White would speak to Mr Biggin about the Briars Taskforce obtaining access to their case notes and debriefing tapes
 - the SDU did not want any link back to Ms Gobbo's 'historical activities' as 'it obviously opens up a whole can of worms'
 - Mr Waddell had raised credit issues if the Briars Taskforce could not rely on such material, in the event Ms Gobbo did not have

⁴⁷⁷³ Exhibit RC1196 Statement of Mr Stephen Waddell, 17 September 2019, 6 [31], VPL.0014.0055.0001 @.0006.

⁴⁷⁷⁴ Exhibit RC1196 Statement of Mr Stephen Waddell, 17 September 2019, 6 [31], VPL.0014.0055.0001 @.0006; Exhibit RC1006 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 16 March 2009, 26-33, VPL.0100.0001.5402 @.5427.

⁴⁷⁷⁵ Exhibit RC1006 Petra Taskforce Weekly Update with handwritten notes of Assistant Commissioner Luke Cornelius, 16 March 2009, 26-33, VPL.0100.0001.5402 @.5427.

⁴⁷⁷⁶ Exhibit RC1196 Statement of Mr Stephen Waddell, 17 September 2019, 6-7 [33]-[34], VPL.0014.0055.0001 @.0006 - .0007.

independent notes, to which Mr Sandy White said he would enquire about Ms Gobbo having diary entries.⁴⁷⁷⁷

3616. On 6 April 2009, a Briars Taskforce Management Committee meeting took place, which was attended by Messrs Cornelius, Ashton, Moloney, Wilson, Wilkins and Waddell. Mr Waddell presented an updated investigation plan. This referred to Ms Gobbo as 'Witness D' and said that there was no indication as to when it might be possible to speak with her. Mr Cornelius wrote beside an entry in the update, that there was to be follow up with the Petra Taskforce in relation to timing.⁴⁷⁷⁸
3617. On 20 April 2009, a Briars Taskforce Management Committee meeting took place. Mr Cornelius made a handwritten note:
- > note 3838 may give statement re advice obtained from Perry.*⁴⁷⁷⁹
3618. Mr Cornelius said in his statement to the Commission that it was clear to him at the time of this meeting that Ms Gobbo was '3838', however he did not become aware of the breadth of information she had provided to Victoria Police.⁴⁷⁸⁰

March 2009 – The Loose Thread

3619. Earlier in his evidence to the Commission, material was put to Mr Cornelius which indicated that he had been briefed by Mr Overland on 6 June 2006 about Ms Gobbo's status as a human source. Submissions concerning his knowledge at that time are contained in Chapter 12. There it is submitted that Mr Cornelius became aware of Ms Gobbo's status on 6 June 2006, alternatively during Operation Khadi and submissions are made as to what he should have done if he was so aware at either stage.
3620. Mr Cornelius said whilst he accepted the 6 July 2006 meeting took place, he had no recollection of having been told about Ms Gobbo's role and said he believed he was not told this information. He offered in support of this belief, a number of reasons why he would remember if he had have been given that information, including:
- he would have understood that it would be extraordinary to use a barrister, in particular a criminal defence barrister, as a human source⁴⁷⁸¹
 - he would have understood the implications of Ms Gobbo, whom he knew to represent key underworld figures, being a human source for

⁴⁷⁷⁷ Exhibit RC0832 Email from Stephen Waddell to Rodney Wilson, 25 March 2009, 1, VPL.6115.0057.2684.

⁴⁷⁷⁸ Exhibit RC1758 Calendar appointment, 6 April 2009, 402, Briars Taskforce file maintained by Assistant Commissioner Luke Cornelius, 402, VPL.0100.0058.0798 @.1199; Exhibit RC1756 Briars Taskforce Supplementary Investigation Plan, Briars Taskforce file maintained by Assistant Commissioner Luke Cornelius, 403, VPL.0100.0058.0798 @.1200.

⁴⁷⁷⁹ Exhibit RC1759 Weekly Update, 20 April 2009, Briars Taskforce file maintained by Assistant Commissioner Luke Cornelius, 400, VPL.0100.0058.0798 @.1197.

⁴⁷⁸⁰ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 15 [97] – [98], VPL.0014.0057.0001 @.0015.

⁴⁷⁸¹ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 9 [61], VPL.0014.0057.0001 @.0009; Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11031, TRN.2019.12.12.01.

the SDU in circumstances where Mr Overland was interested, including her likely use by the Purana Taskforce⁴⁷⁸²

- he would have recognised such a situation to be fraught with risk and would have asked questions in order to understand whether any information being provided was subject to legal professional privilege, or whether she was acting for those she was informing on⁴⁷⁸³
- he would have wanted to be satisfied that there was significant oversight of any such arrangement, that legal advice had been obtained, and that there were definite boundaries or parameters in place.⁴⁷⁸⁴

3621. In a similar vein, Mr Cornelius said if he had received the SWOT analysis in January 2009, he would have taken active steps to see to it, that the risks identified in the document were addressed. He was asked what he would have expected of the OPI had he (Mr Cornelius) become aware of the document:

MR CORNELIUS: Well I would have expected, as would I [sic] that I would have picked up the loose thread and started pulling it. I may well have moved from having a wonderful Persian carpet to a pile of string, but it would be a question of pulling the thread until you understood all of the issues around it so that you're in a position to make a lawful and ethical decision in response to it.

MS TITTENSOR: This would have set off a significant review within the OPI, you would expect?

MR CORNELIUS: Yes, it ought to have.⁴⁷⁸⁵

3622. Mr Cornelius told the Commission that his 'strong sense' was, that he learned about Ms Gobbo's status as a human source in March 2009, in the context of the recommencement of the Briars Taskforce. He said it was also only then that he learned that Messrs Waddell and Iddles had interviewed Ms Gobbo in January 2008.⁴⁷⁸⁶

3623. Mr Cornelius also told the Commission that:

- he was content to assume that Ms Gobbo was registered and providing information only in relation to the Briars Taskforce, but he said that no one told him this and he didn't ask, although it would have been simple enough to do so

⁴⁷⁸² Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055-11056, TRN.2019.12.12.01.

⁴⁷⁸³ Transcript of Assistant Commissioner Luke Cornelius, 12 December 201, 11032, TRN.2019.12.12.01.

⁴⁷⁸⁴ Transcript of Assistant Commissioner Luke Cornelius, 12 December 201, 11031-11032, 11056, TRN.2019.12.12.01.

⁴⁷⁸⁵ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12368, TRN.2020.01.24.01.

Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12375-12378, TRN.2020.01.24.01.

- he had no reason to question whether Ms Gobbo might have also provided information used by the Petra Taskforce, although it might have implications for that case if she did.

3624. If, contrary to submissions in Chapter 12, it is accepted that Mr Cornelius only learned in about March 2009 that Ms Gobbo was a human source, it is submitted that his response was at odds with the reason he claimed that he could not have learned earlier; that is that he would have found it extraordinary and would have taken appropriate steps to satisfy himself that there was significant oversight in place and legal advice sought. He did not seek to satisfy himself of those things; he did not start pulling the loose thread.
3625. Instead, despite learning that he alone out all of his colleagues had not been let in on the secret, Mr Cornelius in his evidence to the Commission, would not accept that he ought to have been told about the extent of Ms Gobbo's relationship with Victoria Police. He was content that others had decided that he did not need to know.⁴⁷⁸⁷
3626. It is submitted that the very fact that Messrs Overland, Moloney, Wilson, Waddell, Iddles, Steven Smith and O'Connell were aware that Ms Gobbo was an informer, makes it very difficult to accept that Mr Cornelius for some reason that is not clear, had been left out.
3627. Concerns were raised with Mr Cornelius on a number of other occasions following this, however it seems that Mr Cornelius did not raise any concern about the appropriateness of what had occurred.

24 April 2009 – Waddell Obtains SDU Summary Document of Gobbo Contact with Waters

3628. In March and April 2009, Mr Waddell had a number of meetings with the SDU to discuss obtaining the SDU holdings in relation to Ms Gobbo's contact with Mr Waters.⁴⁷⁸⁸
3629. This was ultimately facilitated by Messrs Sandy White and Biggin. On 24 April 2009, Mr Waddell received a 43-page document containing all references to Mr Waters in Ms Gobbo's ICRs. The document indicated it was 'Released for perusal by Detective Inspector Waddell on authority Superintendent Biggin, Covert Support Division'. It is submitted that it would have been apparent to any reader of this document, given the date range, and missing ICR numbers, that Ms Gobbo had provided Victoria Police with substantially more information besides that relating to Mr Waters.⁴⁷⁸⁹

⁴⁷⁸⁷ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12378 - 12379, TRN.2020.01.24.01.

⁴⁷⁸⁸ Exhibit RC1196 Statement of Mr Stephen Waddell, 17 September 2019, 7 [35], VPL.0014.0055.0001 @.0007.

⁴⁷⁸⁹ Exhibit RC1202 Summary of Ms Nicola Gobbo ICRs relating to David Waters, 24 April 2009, VPL.2000.0002.0899.

May 2009 – Gobbo Made Available to Briars

3630. On 5 May 2009, at a Petra Taskforce Management Committee meeting, Mr Cornelius noted in relation to Ms Gobbo that 'Briars (statement) pencilled in for 19th May. Neutral venue.'⁴⁷⁹⁰
3631. Following this Mr O'Connell was involved in arrangements for Messrs Waddell and Iddles to travel to Bali.⁴⁷⁹¹
3632. On 18 May 2009, the Briars Taskforce Management Committee met. The update indicated that investigators would travel to speak with Ms Gobbo on 24 May 2009.⁴⁷⁹² On 20 May 2009, Mr Cornelius authorised travel to Bali for investigators to take a statement from Ms Gobbo.

May 2009 – Briars Investigators Received Potentially Privileged Information

3633. As referred to above, in late October and November 2007, Ms Gobbo told handlers that Mr Waters might seek her out for legal representation and that they had met in relation to concerns that he might be arrested. Mr Waters sent an email to Ms Gobbo entitled 'CONFIDENTIAL!!!!!!', containing a statement which he had proposed to read in his record of interview. Ms Gobbo offered to supply it to the SDU. She subsequently met with him and he asked Ms Gobbo for advice about the statement. Ms Gobbo told him that it needed to be made more detailed. Ms Gobbo offered it to the SDU but was told it would not accept the document as it could be part of Mr Waters' defence.⁴⁷⁹³
3634. On 11 May 2009, Ms Gobbo forwarded Mr Waters' email, with the statement attached, to Mr O'Connell, indicating that she did not think Mr Iddles was aware of the statement. Mr O'Connell forwarded this email to Mr Steven Smith. On 21 May 2009, Mr Steven Smith sent the email chain with the document to Mr Iddles, stating 'as discussed'.⁴⁷⁹⁴ Mr Iddles then forwarded the statement to Mr Waddell stating 'This was emailed by 3838 to PETRA. It was a draft statement DKT did and got her to keep.'⁴⁷⁹⁵ 'DKT' was an abbreviation of 'Docket', the nickname of Mr Waters.

25 May 2009 – Briars Goes to Bali

3635. Messrs Waddell and Iddles arrived in Bali on 24 May 2009 and met with Ms Gobbo on each day from 25 May 2009 until they flew out on the night of 28

⁴⁷⁹⁰ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 15-16 [99], VPL.0014.0057.0001 @.0015 - .0016.

⁴⁷⁹¹ Exhibit RC1264 Email from Ronald (Ron) Iddles to Shane O'Connell, 13 May 2009, VPL.6073.0003.2664; Exhibit RC1265 Email from Ronald (Ron) Iddles to Stephen Waddell, 19 May 2009, VPL.603.0032.4741.

⁴⁷⁹² Exhibit RC1757 Briars Taskforce Update, 18 May 2009, Briars Taskforce file maintained by Assistant Commissioner Luke Cornelius, 392, VPL.0100.0058.0798 @.1189.

⁴⁷⁹³ Exhibit RC0281 ICR3838 (108), 5 November 2007, 1357, 1362, VPL.2000.0003.2943, VPL.2000.0003.2948; Exhibit RC0281 ICR3838 (109), 7 November 2007, 1373, VPL.2000.0003.2959; Exhibit RC0281 ICR3838 (109), 10 November 2007, 1385, VPL.2000.0003.2971; Exhibit RC1267, Email train involving Waters, Gobbo, O'Connell, Smith and Iddles attaching statement from Waters, 7 November 2007 to 21 May 2009, VPL.6073.0006.9380 @.9381

⁴⁷⁹⁴ RC1267 Email chain involving David Waters, Nicola Gobbo, Shane O'Connell, Steven Smith and Ronald (Ron) Iddles, and attachment to email, statement from David Waters, 7 November 2007 - 21 May 2009, VPL.6073.0006.9380 @.9380 - .9381.

⁴⁷⁹⁵ Exhibit RC1268 Email from Ronald (Ron) Iddles to Stephen Waddell, and attachment to email, statement from David Waters, 21 May 2009, VPL.6073.0034.2479 @.2479 – 2480.

May 2009.⁴⁷⁹⁶ At one point, on 26 May 2009, Ms Gobbo received a number of death threats via text message.

3636. Prior to arriving in Bali, Mr Waddell had commenced the structure of a statement, including information which they had obtained from Ms Gobbo on 14 January 2008 which was contained in an information report of that date. Once in Bali, the statement was filled out. Either during the time in Bali, or following his return, Mr Waddell added emphasis to parts of the draft, to indicate matters which required clarification or following up. The jurat in the draft statement remained dated 21 May 2009 following their departure from Bali.⁴⁷⁹⁷
3637. The process of drafting the statement involved taking Ms Gobbo through, and creating a narrative from, the information which she had previously provided. Much of the remainder of the statement is reflective of the information contained in the SDU document that Mr Waddell had received in late April and which contained Ms Gobbo's ICRs of her contact with Mr Waters. Mr Iddles stated that Ms Gobbo could only remember specific dates and conversation by reference to this material.⁴⁷⁹⁸ When analysed, the language between the ICR and the statement is often similar, if not verbatim.
3638. One section of the unsigned statement made by Ms Gobbo gave rise to some controversy. Whereas previously in January 2008, Ms Gobbo told investigators that she had heard about a confession given to Mr Valos (which investigations had already thrown doubt upon), she now claimed to have heard the confession from Mr Perry herself.
3639. This would have the effect of Ms Gobbo becoming a witness, not just in relation to Mr Waters, but also in relation to Mr Perry, notwithstanding that there would be a significant issue with her credibility.

27 May 2009 – Briars Progress Reported to Cornelius

3640. On 27 May 2009, Mr Cornelius had a telephone conference with Mr Smith who briefed him as to the developments in Bali. He noted that on the first day that '*preliminaries*' had been dealt with. On the second day, there had been less than expected but it was gaining in strength.
3641. Mr Cornelius handwritten note then reads either:
- Note it will ID her as H source*
- or
- Note it will ID her as the source*
- Mr Cornelius contends the latter.
3642. It goes on, '*Not a complete smoking gun, but significant value*', and that the statement would be assessed the following day for signature. He then noted

⁴⁷⁹⁶ Exhibit RC1009 Petra Contact Report, 24 to 28 May 2009, VPL.0100.0237.2865.

⁴⁷⁹⁷ RC1269 Email from Stephen Waddell to Abbey Hogan, and attachment, statement of Ms Nicola Gobbo, VPL.6083.0022.6216, VPL.6083.0022.6217.

⁴⁷⁹⁸ Exhibit RC1206 Statement of Ronald (Ron) Iddles, 3 June 2019, 3 [16], COM.0008.0001.0001 @.0003.

*'NB. Rec'd 3 death threats by text over past 24 hours. From SIM in false name.'*⁴⁷⁹⁹

3643. Following the call, Mr Cornelius notified and briefed Messrs Wilson, Overland and McRae.

3644. Mr McRae could not recall this briefing.⁴⁸⁰⁰

Late May 2009 – Iddles Concerns about Gobbo Being a Witness

3645. Mr Iddles told the Commission that he had been of the view that Ms Gobbo's role as a human source would inevitably be exposed through any court process if she became a witness for the Briars Taskforce. He said for this reason, he and Mr Waddell determined to seek further advice from Mr Wilson who was overseeing the Briars Taskforce.⁴⁸⁰¹

3646. Whilst Mr Waddell went to call Mr Wilson, Ms Gobbo spoke to Mr Iddles about the assistance she had provided to Victoria Police, in particular to the Purana Taskforce, including that:

- she had assisted in solving the underworld killings and the seizing of \$63 million dollars of assets owned by Tony Mokbel
- she had been told constantly by SDU handlers not to breach privilege, but had responded to Mr Sandy White, 'It is a bit late, I crossed that line a long time ago, I act in the best interests of Victoria Police not my client.'⁴⁸⁰²

3647. That Ms Gobbo would have had such a conversation with Mr Iddles is consistent with similar conversations with Mr O'Connell, who was managing Ms Gobbo's assistance to the Petra Taskforce, commencing on 7 January 2009, and later with Mr Buick, who was managing the Dale ACC prosecution, in 2011.

3648. Mr Iddles came to the view that if a statement was taken from Ms Gobbo, and her role was exposed, there was *'a possibility of it all blowing up and ending in a Royal Commission.'*⁴⁸⁰³

3649. Mr Waddell returned from his conversation with Mr Wilson with an instruction that the statement taking was to continue. He was told by Mr Wilson, who was Mr Overland's Chief-of-Staff that the direction came from Mr Overland.⁴⁸⁰⁴

⁴⁷⁹⁹ Exhibit RC0946 Handwritten meeting notes of Assistant Commissioner Luke Cornelius, 27 May 2009, VPL.0005.0012.3547

⁴⁸⁰⁰ Transcript of Mr Findlay McRae, 30 January 2020, 12640 – 12641, TRN.2020.01.30.

⁴⁸⁰¹ Exhibit RC1206 Statement of Ronald (Ron) Iddles, 3 June 2019, 3-4 [17]-[18], COM.0008.0001.0001 @.0003 - .0004.

⁴⁸⁰² Exhibit RC1206 Statement of Ronald (Ron) Iddles, 3 June 2019, 4 [19], COM.0008.0001.0001 @.0004.

⁴⁸⁰³ Exhibit RC1206 Statement of Ronald (Ron) Iddles, 3 June 2019, 4 [20], COM.0008.0001.0001 @.0004.

⁴⁸⁰⁴ Exhibit RC1206 Statement of Ronald (Ron) Iddles, 3 June 2019, 3 - 4 [18], COM.0008.0001.0001 @.0003 - .0004.

3650. The statement was not signed by Ms Gobbo before Messrs Waddell and Iddles left Bali. Mr Waddell had matters which he needed to clarify or follow up on once they returned to Melbourne.⁴⁸⁰⁵

29 May 2009 – Waddell and Iddles Return to Melbourne

3651. Messrs Waddell and Iddles flew back into Melbourne on 29 May 2009. They immediately returned to the office to provide Mr Wilson with a briefing.

3652. Mr Wilson recorded in his diary that he spoke with them about Ms Gobbo's statement. He then recorded speaking with Mr Cornelius in relation to safety issues with Ms Gobbo, and later that he had briefed Mr Overland.⁴⁸⁰⁶

3653. Mr Cornelius had further dealings in relation to Ms Gobbo's protection.⁴⁸⁰⁷

29 May 2009 – Iddles and SDU Discuss Concerns

3654. That evening, 29 May 2009, Mr Iddles met with Mr Black of the SDU.

3655. Mr Black noted concerns from the SDU that Command had decided to approach Ms Gobbo for a statement and appeared to have taken a simplistic view, that as Ms Gobbo was a witness for the Petra Taskforce, she could also be a witness for the Briars Taskforce. Mr Black said that the circumstances were different, and that if Ms Gobbo became a witness for the Briars Taskforce, her role as a human source would be discovered. He noted that the strategy for Ms Gobbo to become a witness for the Petra Taskforce had involved separating her role as a human source with the SDU from her role as a witness.

3656. Mr Iddles indicated to Mr Black that a statement from Ms Gobbo was still being requested. He shared his concerns as to the disclosure of Ms Gobbo's role as a human source. It is apparent there was discussion about Ms Gobbo having the dual role of being a source and giving legal advice to clients, and concerns that 'disclosure will initiate a Royal Commission with perceived unsafe verdicts' and 'current arrests HS involved with may be subject to review'.

3657. Mr Black sought some time to allow for the return of Mr Biggin from leave.⁴⁸⁰⁸

3658. It is clear from this conversation between Mr Iddles and Mr Black that in relation to Ms Gobbo being a witness for the Petra Taskforce:

⁴⁸⁰⁵ Exhibit RC1196 Statement of Stephen Waddell, 17 September 2019, 9 [48], VPL.0014.0055.0001 @.0009.

⁴⁸⁰⁶ Exhibit RC0828 Mr Rodney Wilson diary, 29 May 2009, 246 – 247, RCMP.0118.0001.0001 @.0246 - .0247.

⁴⁸⁰⁷ Exhibit RC1010 Assistant Commissioner Luke Cornelius' notes of meeting with Steven Smith, Mr James Hart and Mr Geoff Alway, 1 June 2009, VPL.0005.0012.3541; Exhibit RC1760 ; Luke Cornelius' notes of meeting with Mr Simon Overland, 1 June 2009, Briars Taskforce file maintained by Assistant Commissioner, VPL.0005.0012.3539; Exhibit RC1011 Assistant Commissioner Luke Cornelius' notes of Petra Taskforce Management Committee meeting, 1 June 2009, VPL.0005.0012.3517; Exhibit RC1012 Assistant Commissioner Luke Cornelius' notes of Briars Taskforce Management Committee meeting, 1 June 2009, VPL.0005.0012.0894.

⁴⁸⁰⁸ Exhibit RC0591 Mr Black diary, 29 May 2009, 692, RCMP.0090.0001.0001 @.0692.

- a strategy had been devised such that Ms Gobbo's role as a human source, or any SDU material, would not be disclosed during the Dale murder prosecution
- this strategy would not work if Ms Gobbo became a witness for Briars
- Messrs Black and Iddles were both concerned that Ms Gobbo's role as a human source should not be disclosed, lest it result in a Royal Commission, or overturned convictions or jeopardised prosecutions.

3659. It is submitted that such concerns should have led them to the view that what had occurred was wrong and required review.

1 June 2009 – Waddell seeks Further SDU Material

3660. On 1 June 2009, at 4:30pm, a Briars Taskforce Management Committee meeting took place, attended by Messrs Cornelius, Moloney, Ashton, Wilson, Waddell and Wilkins.

3661. Mr Cornelius made notes of the meeting, including that:

- Ms Gobbo had made a 15-page statement which it was believed she would sign
- the statement implicated both Perry and Waters, containing sufficient evidence to prosecute them both, however there were issues
- one issue was that her latest version was different to her original version
- Mr Waddell wanted further ICRs from the SDU and had been refused the tapes of conversations between Ms Gobbo and the SDU
- access was needed to the tapes before Ms Gobbo's statement could be settled
- Mr Cornelius would speak with Mr Biggin in relation to Mr Waddell obtaining access to the SDU material
- Ms Gobbo's risk would be increased with Mr Waters 'in the frame'
- Ms Gobbo had been talking to Mr Cooper and Mr Tony Mokbel whilst in Bali.⁴⁸⁰⁹

3662. Later that night, Mr Waddell emailed Mr Cornelius requesting his assistance in obtaining further material from the SDU. Mr Waddell explained that he had previously been provided with access to material relating to Ms Gobbo's contact with Waters. He then went on:

*I understand that because of the **vast quantity of material supplied by this source** that in order to quickly provide the transcripts that I have the unit simply did a search on the name Waters and provided me with all contact reports containing that name. On examining that*

⁴⁸⁰⁹ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 17 [105], VPL.0014.0057.0001 @.0017; Exhibit RC1012 Electronic calendar meeting note for Briars Taskforce with handwritten notes, 1 June 2009, Briars Taskforce file maintained by Assistant Commissioner Luke Cornelius, 381, VPL.0100.0058.0798 @.1179.

material and after speaking to 3838 it appears that we do not have all relevant source contact reports.

3663. Mr Waddell requested that the SDU holdings be searched further in relation to various names and locations which he then listed, which included the names of three lawyers, Mr Stephen Shirrefs, Ms Lee Ristivojevic and Mr Jim Valos.
3664. Mr Waddell also sought 'all recordings of debriefs relative to the material identified above', indicating that he was 'seeking the material to complete the statement made by 3838 and to satisfy [himself] that the statement was based on the best available evidence and there are no surprises down the track.'⁴⁸¹⁰
3665. Mr Cornelius contended in his evidence to the Commission that his belief during this time was that Ms Gobbo's use as a human source by Victoria Police related only to her assistance to the Briars Taskforce investigation. It is submitted that if this was the case, it would not have made sense for Mr Waddell to be seeking further searches of SDU holdings to obtain all relevant Briars material, he would simply want the entirety of it. Rather, what was being sought was further filtering of identities and locations from the 'vast quantity of material' which Ms Gobbo had supplied.⁴⁸¹¹
3666. Mr Cornelius was asked whether when he saw the list of names which needed to be filtered from the 'vast quantity of material' that he had any concern that Ms Gobbo might have been providing information beyond that related to the Briars Taskforce investigation. Mr Cornelius said he did not.⁴⁸¹²
3667. When Mr Cornelius was asked why there would be a need for an additional search if all it would result in was the rest of the material, he said he did not know the answer to that question.⁴⁸¹³
3668. It is submitted that a further matter that casts doubt on Mr Cornelius' claimed belief arises when one considers paragraph 116 of his statement which, in the context of later events in mid-July 2009, reads:
- 116. I remember that around the time that DI Waddell started reviewing the SDU materials he advised me that they had "extensive holdings". This did not seem right to me if Ms Gobbo had only provided information in relation to Lalor and Waters.*⁴⁸¹⁴
3669. The following day Mr Cornelius emailed Mr Rod Jouning, Acting Commander of the I&CS Department, copying in Messrs Waddell and Moloney, forwarding Mr Waddell's email with the list of relevant identities and locations. Mr Cornelius referred to his discussion with Mr Jouning

⁴⁸¹⁰ Exhibit RC1013, Email from Stephen Waddell to Luke Cornelius, 1 June 2009, VPL.0013.0001.0157.

⁴⁸¹¹ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12408-12409, TRN.2020.01.24.01.

⁴⁸¹² Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12408-12409, TRN.2020.01.24.01.

⁴⁸¹³ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12408-12409, TRN.2020.01.24.01.

⁴⁸¹⁴ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 19 [116], VPL.0014.0057.0001 @.0019.

earlier that day, indicating that the material was required to validate and corroborate matters of fact, and was time critical.

3670. Mr Jouning responded that he had initiated matters from his end.⁴⁸¹⁵ He had instructed Mr Peter Smith, who was on upgraded duties from the SDU, to compile the material sought.⁴⁸¹⁶

2 June 2009 – Black Raises the Alarm

3671. As Mr Waddell was raising his concerns about the need for access to more material with his superiors, Mr Black was raising with his superiors concerns about the consequences of Ms Gobbo's exposure as a human source should she become a Briars Taskforce witness.

3672. On the morning of 2 June 2009, Mr Black spoke with his Inspector, Mr Andrew Glow, raising the perceived implications of Ms Gobbo making a statement for Briars. In his diary entry, Mr Black 'cut and paste' his conversation with Mr Iddles indicating that he raised those matters with Mr Glow. It was agreed the matter should be discussed with Mr Biggin upon his return from leave.⁴⁸¹⁷

3673. That afternoon, Mr Black spoke with Mr Peter Smith who advised him that a meeting had been conducted with I&CS Department Command in the absence of the SDU, and that an email from Mr Waddell had been forwarded by Mr Cornelius to Mr Jouning directing that further ICRs related to other identities and places of interest be provided to the Briars Taskforce.⁴⁸¹⁸

3674. Mr Black reported the matter to Mr Glow, requesting to speak with his superior, Mr Porter. Shortly thereafter Mr Black attended Mr Porter's office with Mr Peter Smith to discuss the matter. Mr Black's notes of the discussion include:⁴⁸¹⁹

- *The implications for Victoria Police if Ms Gobbo's role was ever disclosed*
- *Public interest immunity may not be successful and jeopardise the HSMU program*
- *Command may cause a Royal Commission*
- *Briars decision is tactically dangerous for convictions*
- *Briars actions will get HS killed*
- *SDU will not be actioning Jouning direction*
- *Porter agreed and will investigate matter*

3675. That night, Mr Black spoke with Mr Sandy White and briefed him on the issues. Mr Black's notes of the discussion include:⁴⁸²⁰

⁴⁸¹⁵ Exhibit RC1018 Email chain involving Stephen Waddell, Luke Cornelius, Danyne Moloney and Rod Jouning, 1-2 June 2009, VPL.0005.0012.0854.

⁴⁸¹⁶ Exhibit RC0523, File note of Mr Peter Smith, Request for assistance from Op Briars re deregistered source, 2 June 2009, VPL.2000.0002.0403.

⁴⁸¹⁷ Exhibit RC0591 Mr Black diary, 2 June 2009, 694, RCMPPI.0090.0001.0001 @.0694.

⁴⁸¹⁸ Exhibit RC0591 Mr Black diary, 2 June 2009, 695, RCMPPI.0090.0001.0001 @.0695.

⁴⁸¹⁹ Exhibit RC0591 Mr Black diary, 2 June 2009, 696, RCMPPI.0090.0001.0001 @.0696.

⁴⁸²⁰ Exhibit RC0591 Mr Black diary, 2 June 2009, 696, RCMPPI.0090.0001.0001 @.0696.

- *SDU should warn Command strongly against this course of action as it will disclose HS role, place HS in extreme danger and possibly jeopardise convictions*
- *SW stated Command has already made its decision*
- *Issue if SDU try to protect HS, any PII could/would fail as public interest will be viewed higher than protecting police methodology, but it also goes to the credit/instructions to the HS*
- *Furthermore, the document handed over to Briars by SDU appears to be now being used by HS 3838 to refresh memory whilst compiling statement*
- *Outlined to SW of the more exhaustive list requested for searching by Briars.*

3676. Mr Peter Smith made a file note related to the events, which indicated that before any request for assistance was actioned by the HSMU, discussions involving Messrs Porter, Biggin, Moloney and Cornelius were to be finalised.⁴⁸²¹

3677. On 3 June 2009, Mr Black continued to raise concerns. At 7:12am he emailed Messrs Biggin and Sandy White, copied to Mr Glow, indicating that when they were back from leave there needed to be a discussion about the Briars Taskforce proposal for Ms Gobbo. His email included:

*Moreover, what do they actually hope to gain from that individual against the harm they will bring to the Organisation. Obviously the circumstances we created for the transition to Petra are vastly different to Briars.*⁴⁸²²

3678. At 9:20am Mr Black spoke again with Mr Glow, requesting that a meeting be scheduled with Command, at least involving Mr Porter, and to include the SDU, in order to discuss the issues with Mr Waddell. Mr Black outlined the issues again to Mr Glow. Mr Black noted concerns including that:

- Mr Waters had detailed his defence to Ms Gobbo, which had not been disseminated at the time, but had now been provided to investigators in the ICR summary
- Ms Gobbo appeared to be using the ICRs to refresh her memory whilst making the statement
- undeclared ICRs (those not provided to the Briars or Petra Taskforces) included material relating to Ms Gobbo's mental state and instances of her lying to the SDU about Petra Taskforce issues.

3679. Mr Black clearly outlined why the exposure of Ms Gobbo's role as a human source would harm Victoria police, noting that:

Disclosure of Individual's assistance to Victoria Police:

1. *As a Tasked Source*
2. *Who is a Active Barrister*
3. *Visiting Clients*

⁴⁸²¹ Exhibit RC0523, File note of Mr Peter Smith, Request for assistance from Op Briars re deregistered source, 2 June 2009, VPL.2000.0002.0403.

⁴⁸²² Exhibit RC0591 Mr Black diary, 3 June 2009, 697, RCMPPI.0090.0001.0001 @.0697.

4. *Client who think they have privilege*
5. *Clients who believe they are speaking with their legal representative*
6. *That very person who then passes the information to Police*
7. *The HS then continues to act for that Client*
8. *Furthermore, HS then convinces the Client to pleas guilty*⁴⁸²³

3680. Between 3:00pm and 4:00pm, Messrs Porter, Iddles, Waddell, Glow, Peter Smith and Black had a meeting. Mr Black notes indicate that discussion included:

- that Ms Gobbo should not be allowed to sign the drafted statement without full consideration of the issues
- concern over a review of human source management at Victoria Police
- Ms Gobbo's involvement with the Purana Taskforce, such as her:
 - deployment in relation to Mr Cooper and his subsequent arrest
 - having provided intelligence and been used as a tool to arrest the Mokbel family.
- warnings about Ms Gobbo's health, honesty and prior inconsistent statements revealed by the SDU material
- the difference between the way in which Ms Gobbo had been deployed in relation to Mr Dale, in which she was said to have been deployed by the Petra Taskforce, to the way in which she was deployed in relation to Mr Waters, in that she was deployed by the SDU as a human source
- that the matter was to be revisited with Mr Moloney, who had previously commanded I&CS and was now the Assistant Commissioner of Crime, and also by the Briars Taskforce Steering Committee, to ensure that the decision to have a statement taken by Ms Gobbo was 'made with all the facts'.

3681. Later that day Mr Porter spoke to Mr Moloney and arranged a meeting on 9 June 2009.⁴⁸²⁴

3682. On 5 June 2009, Mr Porter spoke with Mr Jouning regarding these issues. He told him the issue was to be elevated to Mr Moloney.⁴⁸²⁵

June 2009 – Gobbo issues [REDACTED]

3683. Discussions continued throughout 2009 between Ms Gobbo and various members of Victoria Police in relation to her entry into the Witness Protection Program. Mr Wilson, as Chief of Staff to Mr Overland became involved and met with Ms Gobbo on a number of occasions, including one

⁴⁸²³ Exhibit RC0591 Mr Black diary, 3 June 2009, 697 – 698, RCMPPI.0090.0001.0001 @.0697 - .0698.

⁴⁸²⁴ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2009, 9-10 [49], VPL.0014.0048.0001 @.0009 - .0010.

⁴⁸²⁵ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2009, 10 [50], VPL.0014.0048.0001 @.0010.

time with Mr McRae, the Director of Legal Services. The progress, or lack of it, was being reported to those in Command, including Mr Overland at times.

3684. On 1 June 2009, Mr Cornelius met with Commander James Hart and Inspector Geoff Alway of the WSU, along with Mr Steven Smith. Issues relating to difficulties dealing with Ms Gobbo were discussed. At the end of his note, Mr Cornelius outlined the options. In doing so he noted the need to 'think through the consequences', one of which was that Ms Gobbo 'could go back to Gatto'.⁴⁸²⁶ It is apparent from this that Mr Cornelius had knowledge of Ms Gobbo's association with Mr Gatto.
3685. Following this Mr Cornelius made notes of a meeting where he conveyed these concerns to Mr Overland, noting that the collective advice was to 'call her bluff' and tell Ms Gobbo that she join the WPP or the police would have no further dealings with her. Mr Overland agreed but said they should meet the existing commitments over the next three days.⁴⁸²⁷
3686. Later that day there was a Petra Taskforce Management Committee meeting attended by Messrs Cornelius, Moloney, Ashton, Hollowood, Smith and Wilkins where there was discussion of Messrs McRae and Alway being introduced to Ms Gobbo by Mr Smith, in order that they could deliver the message to her.⁴⁸²⁸

June 2009 – First VicPol Letter to Gobbo

3687. On 2 June 2009, Mr Cornelius met with Messrs Hart, McRae and Alway to discuss a letter being sent to Ms Gobbo regarding her entry into witness protection.⁴⁸²⁹ Mr Cornelius made a file note of the meeting indicating that Mr Wilson and Mr McRae would meet with Ms Gobbo and deliver her a letter. It was decided that the letter would be signed by Deputy Commissioner Kieran Walshe.
3688. Mr McRae said that he had been requested to assist by attempting to convince Ms Gobbo that it was in her interest to enter witness protection.⁴⁸³⁰
3689. On 3 June 2009, Mr McRae attended a meeting with Ms Isabel Parsons (Special Counsel within the Commercial and Property Branch of the VGSO), Mr David Ryan (Managing Principal Solicitor, VGSO), Mr Smith, Mr Alway and Mr Wilson.⁴⁸³¹
3690. Ms Parsons took notes of the meeting, which included reference to the witness clearly having '*wide ranging info*', and the threats to Ms Gobbo being '*Briars + Petra related*'.⁴⁸³² This does not accord with Mr McRae's

⁴⁸²⁶ Exhibit RC1010 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 1 June 2009, VPL.0005.0012.3541.

⁴⁸²⁷ Exhibit RC1777 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 1 June 2009, VPL.0005.0012.3539.

⁴⁸²⁸ Exhibit RC1011 Electronic Calendar entry with Assistant Commissioner Luke Cornelius' handwriting, 1 June 2009, VPL.0005.0012.3517.

⁴⁸²⁹ Exhibit RC1016 Handwritten meeting notes of Assistant Commissioner Luke Cornelius on meeting notice headed 'Bruce Wemyss', VPL.0005.0012.0866.

⁴⁸³⁰ Exhibit RC01067 Statement of Mr Findlay McRae, 13 November 2019, 9 [3.3], VPL.0014.0089.0003 @.0011.

⁴⁸³¹ Exhibit RC01067 Statement of Mr Findlay McRae, 13 November 2019, 9 [3.9], VPL.0014.0089.0003 @.0012.

⁴⁸³² Exhibit RC1071 VGSO file note of meeting of 3 June 2009, VGSO.2000.1362.0347.

evidence that he did not understand Ms Gobbo to have an association with the Briars Taskforce until Ms Gobbo commenced civil litigation in 2010.⁴⁸³³ Mr McRae said he could not recall this.⁴⁸³⁴

3691. Mr McRae made a file note of this meeting in which he recorded a list of issues discussed, including '*witness protection = assists with FOI, PII*'.⁴⁸³⁵ This was a reference indicating a belief that the witness protection legislation would assist in preventing disclosure to the defence of material relating to Ms Gobbo.⁴⁸³⁶
3692. Mr Wilson said that at around this time in June 2009, he assumed that Mr McRae would have had some understanding of Ms Gobbo's past history with Victoria Police but did not think that they had actually discussed her past because Mr Wilson 'kept it absolutely as tight as possible'.⁴⁸³⁷
3693. On 4 June 2009, Mr Ryan and Ms Parsons emailed a draft letter addressed to Ms Gobbo to Messrs McRae and Alway for their review.⁴⁸³⁸ Mr Alway raised a concern regarding the use of Ms Gobbo's name in the letter.⁴⁸³⁹ Mr Ryan advised that Ms Gobbo's real name should not be used.⁴⁸⁴⁰ Mr Walshe signed a letter on 4 June 2009. The letter insisted that Ms Gobbo [REDACTED] [REDACTED] [REDACTED]⁴⁸⁴¹ The letter indicated that [REDACTED] [REDACTED] include details of [REDACTED] [REDACTED] and that it could be [REDACTED] [REDACTED].⁴⁸⁴²
3694. On 5 June 2009, Messrs Wilson and McRae met with Ms Gobbo and delivered the letter. Mr McRae recalled that at the meeting, Ms Gobbo mentioned the names of some of her 'criminal associates' but he could not recall the names of the associates.⁴⁸⁴³ Mr McRae said that he had a 'specific recollection of her saying that she had never breached client legal privilege'.⁴⁸⁴⁴ Mr McRae said that Ms Gobbo's reference to legal privilege was a 'throw away line'.⁴⁸⁴⁵ Mr McRae said that it did not occur to him at this time to dig a bit deeper into Ms Gobbo's reference to legal privilege because during the meeting he was observing and not participating in the conversation, whilst Mr Wilson was desperately trying to get Ms Gobbo to agree to enter the WPP.⁴⁸⁴⁶

⁴⁸³³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 2 [1.14], 3 [3.16-3.17], 22 [4.14], VPL.0014.0089.0003 @.0004, .0005, .0024.

⁴⁸³⁴ Transcript of Mr Findlay McRae, 30 January 2020, 12653, TRN.2020.01.30.01.

⁴⁸³⁵ Exhibit RC1070 Mr Findlay McRae notes of meeting of 3 June 2009, VPL.0005.0003.3482 @.3483.

⁴⁸³⁶ Exhibit RC1070 Mr Findlay McRae notes of meeting of 3 June 2009, VPL.0005.0003.3482 @.3483.

⁴⁸³⁷ Transcript of Mr Rodney Wilson, 5 December 2019, 10517, TRN.2019.12.05.01.

⁴⁸³⁸ Exhibit RC1077 Email from David Ryan to Findlay McRae, 4 June 2009, VGSO.2000.1369.0221.

⁴⁸³⁹ Exhibit RC1077 Email from David Ryan to Findlay McRae, 4 June 2009, VGSO.2000.1369.0221.

⁴⁸⁴⁰ Exhibit RC1077 Email from David Ryan to Findlay McRae, 4 June 2009, VGSO.2000.1369.0221.

⁴⁸⁴¹ Exhibit RC1718 Letter from Kieran Walshe to Nicola Gobbo, 4 June 2009, VPL.6124.0036.4652.

⁴⁸⁴² Exhibit RC1718 Letter from Kieran Walshe to Nicola Gobbo, 4 June 2009, VPL.6124.0036.4652.

⁴⁸⁴³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 10 [3.12], VPL.0014.0089.0003 @.0012.

⁴⁸⁴⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 10 [3.12], VPL.0014.0089.0003 @.0012.

⁴⁸⁴⁵ Transcript of Mr McRae, 30 January 2020, 12655, TRN.2020.01.30.01.

⁴⁸⁴⁶ Transcript of Mr McRae, 30 January 2020, 12656 - 12657, TRN.2020.01.30.01.

3695. Mr McRae said that he took notes during the meeting with a focus on what he considered were the potential heads of agreement and what Ms Gobbo wanted in the witness protection agreement so that Victoria Police could make her safe.⁴⁸⁴⁷ He said he left the meeting with the impression that Ms Gobbo would agree to enter into an arrangement.⁴⁸⁴⁸
3696. On 15 and 29 June 2009, Petra Taskforce Management Committee meetings were held attended by Messrs Cornelius, Moloney, Ashton, Wilkins and Steven Smith where there was further discussion about the progress of negotiations with Ms Gobbo.⁴⁸⁴⁹

9 June 2009 – Porter Briefs Moloney

3697. On 9 June 2009, Mr Porter met with Mr Moloney and Mr Gerry Ryan. They discussed the issues that would arise if Ms Gobbo became a witness for the Briars Taskforce. Mr Porter raised the concerns which had been raised with him, as he wanted those making decisions at the Briars Taskforce to be fully aware of all the implications. It was determined that the matter should be further elevated to Mr Cornelius.⁴⁸⁵⁰
3698. Following this time an email invitation was sent by Mr Moloney's Chief of Staff for a meeting to take place involving Messrs Cornelius, Moloney, Porter and Jouning at Mr Cornelius' office the following afternoon.⁴⁸⁵¹
3699. It is likely that Mr Moloney would have spoken to Mr Cornelius to arrange such a meeting, which would involve explaining what the meeting was about. Mr Moloney, as the Commander of the I&CS department throughout the period that Ms Gobbo was registered for the third time, had considerable knowledge of Ms Gobbo's history with Victoria Police.

10 June 2009 – Mokbel Subpoena Issue

3700. On the morning of 10 June 2009, Mr Waddell spoke with Mr Cornelius about a subpoena which had been issued on behalf of Mr Tony Mokbel, who had a trial pending for the murder of Mr Lewis Moran.⁴⁸⁵² The subpoena, which was returnable on 1 July 2009, sought material related to the Briars investigation, and potentially caught the draft statement which had been made by Ms Gobbo in Bali.⁴⁸⁵³ Mr Waddell showed Mr Cornelius the relevant parts of the subpoena.⁴⁸⁵⁴

⁴⁸⁴⁷ Transcript of Mr McRae, 30 January 2020, 12657, TRN.2020.01.30.01.; Exhibit RC1816 File note of Mr Findlay McRae, 5 June 2009, VPL.0005.0003.3473.

⁴⁸⁴⁸ Transcript of Mr McRae, 30 January 2020, 12658, TRN.2020.01.30.01.

⁴⁸⁴⁹ Exhibit RC1022 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 15 June 2009, VPL0005.0012.0836; Exhibit RC1777 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 29 June 2009, VPL.0005.0012.3473.

⁴⁸⁵⁰ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2009, 10 [51], VPL.0014.0048.0001 @.0010.

⁴⁸⁵¹ Exhibit RC1020 Meeting invitation from Assistant Commissioner Luke Cornelius and email response, 9 June 2009, VPL.0013.0001.0027.

⁴⁸⁵² Exhibit RC0885 Email from Stephen Waddell to Findlay McRae, 10 June 2009, VPL.6023.0165.4530.

⁴⁸⁵³ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2020, 18-19 [110] –[111], VPL.0014.0057.0001 @.0018 - .0019.

⁴⁸⁵⁴ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2019, 12472, TRN.2019.01.29.01.

3701. The Briars Taskforce file maintained by Mr Cornelius contains a copy of the subpoena, with various parts highlighted and a star (*) beside a portion of paragraph 18 which called for statements implicating Messrs Gregory, Goussis, Waters or Lalor in relation to the Chartres-Abbott investigation.⁴⁸⁵⁵
3702. Mr Cornelius authorised Mr Waddell to request that Mr Gerard Maguire of counsel be briefed in order to prevent disclosure of such material.⁴⁸⁵⁶ Mr Waddell subsequently emailed that request to Mr McRae.⁴⁸⁵⁷

Luke Cornelius has asked me to contact your good self. Taskforce Briars has been caught up in a subpoena issued on behalf of Tony Mokbel in his upcoming murder trial (Moran). The subpoena will cause Briars significant issues considering the investigation is ongoing and we intend to fight to protect as much from disclosure as possible. Luke has authorised my request for Gerard McGuire to take up this on our behalf. Gerard is across our investigation as he has previously appeared for the CCP in connection with same. Luke asked me to contact you in order that your office could brief Gerard and get him started on this. The subpoena is returnable by 1/7/09 and basically affects some Purana investigations as well as our own. I have attached a copy of same for your info.

3703. In his statement, Mr McRae said that some of the emails following this referred to '3838'. He maintained he did not know Ms Gobbo had been registered as a human source or designated this number.⁴⁸⁵⁸
3704. Following this, Mr Cornelius emailed Mr Moloney indicating that he had asked Mr Waddell to join the meeting scheduled for that afternoon, as Mr Waddell had just briefed him about a subpoena which had been received that related in part to Ms Gobbo. He thought this would inform discussion about the 'nature of the risks we are having to contend with'.⁴⁸⁵⁹
3705. It is submitted that Mr Cornelius' evidence to the Commission, that he called the meeting to deal with the subpoena issue,⁴⁸⁶⁰ does not accord with the evidence because:
- the meeting was called before the subpoena issue was raised with him
 - the subpoena was an issue because it potentially caught Ms Gobbo's draft statement, not because of concern about it capturing human source material.⁴⁸⁶¹

⁴⁸⁵⁵ Exhibit RC1754 Covering letter, subpoena and schedule in the matter of R v Mokbel , Briars Taskforce file maintained by Assistant Commissioner Luke Cornelius, 370 - 381, VPL.0100.0058.0798 @.1167 - .1178.

⁴⁸⁵⁶ Exhibit RC0885 Email from Stephen Waddell to Findlay McRae, 10 June 2009, VPL.6023.0165.4530.

⁴⁸⁵⁷ Exhibit RC0885 Email from Stephen Waddell to Findlay McRae, 10 June 2009, VPL.6023.0165.4530.

⁴⁸⁵⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 12 [3.16] – [3.17], VPL.0014.0089.0003 @.0014.

⁴⁸⁵⁹ Exhibit RC1020 Meeting invitation from Assistant Commissioner Luke Cornelius and email response, 9 June 2009, VPL.0013.0001.0027.

⁴⁸⁶⁰ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 19 [111], VPL.0014.0057.0001 @.0019; Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12470, TRN.2020.01.29.01.

⁴⁸⁶¹ Transcript of Cornelius, 29 January 2020, 12471, TRN.2020.01.29.01.

10 June 2009 – Porter Briefs Cornelius

3706. Later that afternoon, Messrs Cornelius, Moloney, Jouning, Waddell and Porter met. As referred to above, the meeting had been arranged because Mr Porter was elevating the significant concerns of the SDU as to the consequences of Ms Gobbo becoming a witness for the Briars Taskforce.
3707. In his evidence to the Commission, Mr Porter recalled that he spoke to a document which had been written for him by Mr Black, which he was no longer able to locate. Mr Porter said it was possible that Mr Black provided him with the SDU SWOT analysis as he recalled the issues were similar to those which had been contained in that document.
3708. It does appear that Mr Black had worked on a document in relation to the concerns. On 2 June 2009, he had written in his diary:⁴⁸⁶²

Review arguments to reject the statement from HS 3838 and implications to Victoria Police if HS role was ever disclosed, particularly whilst tasked for Briars Task Force. Issues are completely different to Petra Task Force handover, but Command appear not to distinguish the very different circumstances. Update notes and issues

3709. Mr Cornelius made handwritten notes from the meeting on a printed copy of the emailed calendar invitation, which read:⁴⁸⁶³

Re 3838

- *How far does 3838's stmt take us?*
- *Probably enough to charge vs matter for DPP.*
- *Balance with benefit to Briars vs potential harm to witness.*
- *Will her evidence be admissible?*
 - *Lawyer client privilege?*
 - *Only if lawyer/client r'ship exists.*
 - *She says she was not, at the time acting for Waters – lawyer/client r'ship did not exist.*

⇒

1. *Steve W to access the **recorded** material to assess any risks to credit*
2. *Then assess the probative value of the statement b4 it is signed*
3. *Need to clearly scope the **scale** + filter material on the human source side + then release the material to SW for assessment.*

Note the Mokbel Affidavit

-> Gerard Maguire briefed. Agreed he needs to be briefed about 3838 – relevance per para 18, 4th dot point, p6. Subpoena re Antonios Mokbel, returnable on 1.7.9

3710. Counsel Assisting understand that the words in bold are the correct written words, which were not able to be discerned at the time of Mr Cornelius' examination.

⁴⁸⁶² Exhibit RC0591 Mr Black diary, 2 June 2009, 697, RCMP1.0090.0001.0001 @.0697.

⁴⁸⁶³ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 19 [112], VPL.0014.0057.0001 @.0019; Exhibit RC1021 Assistant Commissioner Luke Cornelius' notes of meeting, 10 June 2009, VPL.0005.0012.0838.

3711. In relation to the third dot point, 'Balance *with benefit to Briars v potential harm to witness*':⁴⁸⁶⁴

- Mr Cornelius agreed he was referring to a balancing exercise
- Mr Cornelius said that the 'potential harm' to Ms Gobbo to which he was referring related to the threats she had received whilst in Bali
- as was suggested to Mr Cornelius, it is submitted that it would not make sense to balance this potential harm with the benefit to Briars, as the threats received in Bali were matters which would nonetheless be ongoing in relation to her role as a witness for the Petra Taskforce.

in the lead up to this meeting Mr Black had:

- said that Command should be warned strongly against using Ms Gobbo as a witness for the Briars Taskforce as it would disclose her human source role and place her in extreme danger or get her killed⁴⁸⁶⁵
- raised concerns related to Ms Gobbo having been used for intelligence and as a tool to arrest Mr Cooper and the Mokbel family.⁴⁸⁶⁶

It is submitted that logically, Mr Cornelius must have been told about other threats, based upon the risk of disclosure of her role to the people she had informed upon, as had been mentioned in meetings in the lead up to this meeting.

3712. In relation to the fourth dot point, '*Will her evidence be admissible*' and subpoints relating to questions of admissibility and lawyer client privilege:

- in the lead up to this meeting Mr Black had recorded concern of Ms Gobbo having a dual role as human source and providing legal advice to clients⁴⁸⁶⁷
- Mr Black had also raised concerns in relation to the material provided to investigators having included information in relation to the defence of Mr Waters, obtained by the SDU in circumstances where they considered it might be privileged and was therefore not passed on
- Mr Cornelius agreed that concerns had been raised at the meeting that Ms Gobbo's evidence may not be admissible⁴⁸⁶⁸
- Mr Cornelius said whilst he could not recall the conversation, he may have noted '*Lawyer client privilege?*' when it was raised by Mr Waddell, whom he recalled did flag that issue about that time⁴⁸⁶⁹

⁴⁸⁶⁴ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12473-12474, TRN.2020.01.29.01.

⁴⁸⁶⁵ Exhibit RC0591 Mr Black diary, 2 June 2009, 696 - 697, RCMPPI.0090.0001.0001 @.0696 - .0697.

⁴⁸⁶⁶ Exhibit RC0591 Mr Black diary, 3 June 2009, 699 - 700, RCMPPI.0090.0001.0001, @.0699 - .0700.

⁴⁸⁶⁷ Exhibit RC0591 Mr Black diary, 29 May 2009, 5:30pm RCMPPI.0090.0001.0001, P.693-694; Exhibit RC0591 Mr Black diary, 1 June 2009, 693 - 694, RCMPPI.0090.0001.0001 @.0693 - .0694.

⁴⁸⁶⁸ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12474, TRN.2020.01.29.01.

⁴⁸⁶⁹ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12474-12475, TRN.2020.01.29.01.

- As was put to Mr Cornelius, those issues were raised by Waddell well after this meeting when he was provided with access to and had reviewed further SDU material.⁴⁸⁷⁰
3713. In relation to point 1, '*Steve W to access the recorded material to assess any risks to credit*':
- Mr Cornelius agreed issues of credit relating to Ms Gobbo were raised at the meeting⁴⁸⁷¹
 - Mr Waddell had previously raised the change to Ms Gobbo's account involving Mark Perry
 - in the lead up to this meeting Mr Black had raised concerns with Mr Porter relating to Ms Gobbo's credit including issues as to her honesty and prior inconsistent statements.⁴⁸⁷²
3714. In relation to point 2, '*Then assess the probative value of the statement b4 it is signed*':
- this accords with Mr Black imploring of Mr Porter and others during a meeting that Ms Gobbo not be allowed to sign the draft statement until the issues had been fully considered.⁴⁸⁷³
3715. In relation to point 3, '*Need to clearly scope the scale + filter material on the human source side + then release the material to SW for assessment*':
- this makes clear that Mr Cornelius was aware that there was material, of a sizable amount, on the SDU side to be filtered, before it was released to Mr Waddell
 - there would be no need to filter the material if Mr Cornelius believed Ms Gobbo's assistance to Victoria Police was limited to the Briars Taskforce
 - it is consistent with Mr Waddell's previous indication to Mr Cornelius that Ms Gobbo had supplied the SDU with vast quantities of material.
3716. In relation to the Mokbel affidavit point:
- the relevant aspect of the subpoena called for material in respect of the Chartres-Abbott murder investigation, including statements implicating Messrs Gregory, Goussis, Waters or Lalor.⁴⁸⁷⁴
3717. Following this meeting, a decision was made that further SDU material should be supplied to Mr Waddell.
3718. On 15 June 2009, a meeting took place involving Messrs Porter, Biggin, Glow, Sandy White, Black and Peter Smith in relation to the request for further material by the Briars Taskforce. The discussion included the

⁴⁸⁷⁰ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12474-12475, TRN.2020.01.29.01.

⁴⁸⁷¹ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12475, TRN.2020.01.29.01.

⁴⁸⁷² Exhibit RC0591 Mr Black diary, 3 June 2009, 699, RCMP.0090.0001.0001 @.0699.

⁴⁸⁷³ Exhibit RC0591 Mr Black diary, 3 June 2009, 699, RCMP.0090.0001.0001 @.0699.

⁴⁸⁷⁴ Exhibit RC1869 Subpoena issued on behalf of Mr Antonios Mokbel, 1 June 2009, 21, VPL.0005.0012.0870 @.0890.

transcription of the tapes which was to be done at the expense of the Briars Taskforce. Mr Biggin also noted 'Our view no value as witness'. Mr Black's notes indicated that there was further discussion of the various issues, finishing:⁴⁸⁷⁵

- *Porter to persuade BOM that this option of HS 3838 making a statement is a dangerous decision*
- *Outlined very strongly that the issue of Briars is insignificant compared to the potential harm to the Organisation, convictions and future of Human Source Management. Particularly given the probative value of this request and the failure of the main Crown witness to give accurate evidence*
- *Any PII application would probably fail given the circumstances surrounding HS.*

3719. Mr Porter said that he could not recall further involvement, his recollection being that the decision had been made that Ms Gobbo would be a witness.⁴⁸⁷⁶ It is apparent that a final decision had not been made at that point; Mr Waddell was still to review the material as determined in the 10 June 2009 meeting.

3720. On 15 June 2009, a Briars Taskforce Management Committee meeting took place attended by Messrs Cornelius, Ashton, Moloney, Wilson and Wilkins. Mr Cornelius noted that Mr Waddell was to meet with Messrs Biggin and Sandy White the following day in relation to the request for further human source material, which was expected to take some weeks to compile.⁴⁸⁷⁷

3721. On 16 June 2009, Messrs Biggin, Sandy White and Waddell met to discuss access to the SDU material. Mr Biggin's notes indicate that there was further discussion of the 'implications' of Ms Gobbo becoming a witness.⁴⁸⁷⁸

3722. On the evidence, it is open to the Commissioner to find that between March 2006 and June 2009 Mr Porter was aware:

- **that Ms Gobbo was a barrister acting as a human source⁴⁸⁷⁹**
- **of his responsibilities as the LIR (LSR) and the CIR (CSR) in relation to Ms Gobbo⁴⁸⁸⁰**
- **of risks associated with there being a lawyer who was a human source including the risk of compromised prosecutions if she**

⁴⁸⁷⁵ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 15 June 2009, 737 - 738, VPL.0005.0155.0001 @.0737 - .0738.

⁴⁸⁷⁶ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2009, 11 [56], VPL.0014.0048.0001 @.0011.

⁴⁸⁷⁷ Exhibit RC1022 Assistant Commissioner Luke Cornelius' File note of Taskforce Briars meeting, 15 June 2009, VPL.0005.0012.0836.

⁴⁸⁷⁸ Exhibit RC0578 Mr Anthony (Tony) Biggin diary, 15 June 2009, 740, VPL.0005.0155.0001 @.0740.

⁴⁸⁷⁹ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2019, 4 [19], 5 [25], VPL.0014.0048.0001 @.0004, .0005.

⁴⁸⁸⁰ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2019, 1 [6],

VPL.0014.0048.0001 @.0001; Transcript of Superintendent Mark Porter, 19 September 2019, 6505-6507, TRN.2019.09.19.01.P.

provided information in breach of confidentiality or legal professional privilege⁴⁸⁸¹

- **that Ms Gobbo was providing significant information used by the Purana Taskforce⁴⁸⁸²**
- **that targets of Purana Taskforce included high profile individuals including Tony Mokbel and Carl Williams with whom Ms Gobbo was associated⁴⁸⁸³**
- **that Ms Gobbo acted for Tony Mokbel⁴⁸⁸⁴**
- **that Ms Gobbo was providing information about high level criminals relevant to the operations of the Purana Taskforce⁴⁸⁸⁵**
- **of the content of SDU risk assessments relating to Ms Gobbo⁴⁸⁸⁶**
- **of the content of the Biggin audit report⁴⁸⁸⁷**
- **of the content of the Reward Application relating to Ms Gobbo⁴⁸⁸⁸**
- **of the content of the SML's⁴⁸⁸⁹**
- **of the matters raised in the Biggin memo dated 2 January 2009 and the attached SWOT analysis, such as concerns that the use of Ms Gobbo as a witness for the Briars Taskforce would lead to disclosure of her broader role as a human source, which could jeopardise prosecutions or convictions, and lead to an inquiry⁴⁸⁹⁰**
- **of the nature of the concerns being raised by the SDU, in particular by Mr Black during June 2009, such as concerns that the use of Ms Gobbo as a witness for the Briars Taskforce would lead to disclosure of her broader role as a human source, it could jeopardise prosecutions or convictions, and lead to an inquiry such as a Royal Commission⁴⁸⁹¹**
- **that necessarily based on the information he had been provided, convictions had been obtained where evidence had been gathered using information provided by Ms Gobbo as a human source**
- **that such evidence may have been determined to be inadmissible in court proceedings had a court failed to uphold a public interest immunity claim**

⁴⁸⁸¹ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2019, 6 [32], VPL.0014.0048.0001 @.0006.

⁴⁸⁸² Chapter 10 at [1477], [1480]

⁴⁸⁸³ Transcript of Superintendent Mark Porter, 19 September 2019, 6504, TRN.2019.09.19.01.P.

⁴⁸⁸⁴ Transcript of Superintendent Mark Porter, 19 September 2019, 6504, 6509-6510, TRN.2019.09.19.01.P.

⁴⁸⁸⁵ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2019, 5 [25], VPL.0014.0048.0001 @.0005.

⁴⁸⁸⁶ Transcript of Superintendent Mark Porter, 19 September 2019, 6507, TRN.2019.09.19.01.P.

⁴⁸⁸⁷ Exhibit RC0512 Statement of Superintendent Mark Porter, 15 August 2019, 4 [23], VPL.0014.0048.0001 @.0004.

⁴⁸⁸⁸ Chapter 10 at [1477], [1480]

⁴⁸⁸⁹ Transcript of Superintendent Mark Porter, 19 September 2019, 6508-6509, TRN.2019.09.19.01.P.

⁴⁸⁹⁰ See Chapter 17 at [3486]

⁴⁸⁹¹ See [3671] - [3682], [3481] – [3484]

- that necessarily based upon the concerns being raised in early and mid 2009, such matters had not been put before a court for determination.

3723. If the above submissions are accepted, then on the evidence, it is open to the Commissioner to find that Mr Porter should have, but did not:

- during the period of Ms Gobbo's registration as a human source, take steps to ensure that members of the SDU were not obtaining information from Ms Gobbo about people for whom she was acting or had acted
- during the period of Ms Gobbo's registration as a human source, ensure that risks associated with Ms Gobbo's use had been appropriately identified in the risk assessment and provision made for their mitigation
- during the period of Ms Gobbo's registration as a human source, take steps to ensure that the members of the SDU had not obtained information from Ms Gobbo about people for whom she was acting, or had acted
- in respect of convictions obtained, take steps to determine whether any person might have been convicted in circumstances in which Ms Gobbo's role as a human source may have affected that person's trial where evidence in relation to Ms Gobbo's use as a human source had not been put before a court for determination, and if so ensure those matters were conveyed to an appropriate authority such as the DPP
- in respect of prosecutions on foot, ensure that the relevant conduct was otherwise disclosed to legal advisors and/or the DPP in order that a court could determine any claim for public interest immunity.

24 June 2009 – Mokbel Murder Trial Subpoena

3724. On 24 June 2009, Mr Ryan of the VGSO, sent an email to Mr McRae, advising him that the subpoena issued on behalf of Mr Tony Mokbel was to be listed for mention in the Supreme Court the following day before Justice Kaye and that Mr Maguire was briefed to appear on behalf of the Chief Commissioner. Mr Ryan indicated that Mr Maguire had conferred with relevant police members including Mr Waddell and that objection was to be made to the inspection of certain documents on the grounds of 'PII and no legitimate forensic purpose'. Mr McRae responded advising that he was shortly to go on leave.⁴⁸⁹²

⁴⁸⁹² Exhibit RC1678 Email from David Ryan to Findlay McRae, 24 June 2009, VPL.0005.0018.0175.

3725. On 25 June 2009, Mr Ryan advised Mr McRae that the hearing had been adjourned to 21 July 2009. Mr McRae responded to this email thanking Mr Ryan.⁴⁸⁹³
3726. A confidential affidavit by Mr Waddell was sought to be put before the trial judge, Justice Kaye, in the Mokbel murder trial. It sought to prevent disclosure of information relating to Mr Gregory and others in the Chartres-Abbott investigation and indicated:⁴⁸⁹⁴
- since December 2008 investigators had been negotiating with three key witnesses who would give evidence crucial to the prosecution of two of the suspects, including one of the police officers⁴⁸⁹⁵
 - two of these three witnesses are currently undergoing prison sentences⁴⁸⁹⁶
 - one of the witnesses had signed a statement, the second had indicated an intention to do so, and the third (who must have been Ms Gobbo) had completed a draft statement which was expected to be signed in the next few weeks⁴⁸⁹⁷
 - it was proposed to deploy the third witness to gather further evidence to assist in locating one of the suspects⁴⁸⁹⁸
 - the statements and draft statement of the three witnesses were considered so sensitive that it was not proposed to produce them to the Court unless directed to do so, and if directed to do so it was proposed to edit the documents to de-identify the makers of the statements.⁴⁸⁹⁹
3727. It is submitted that it is clear from this last matter that the police proposed to conceal, even from the trial judge, the identity of Ms Gobbo and the two other witnesses. Justice Kaye was not prepared to agree to this course indicating he was not prepared to have secrets kept from officers of the Court. The matter was adjourned to 25 July 2009.⁴⁹⁰⁰
3728. This matter was reported to the Briars Taskforce Management Committee meeting attended by Messrs Cornelius, Ashton, Moloney, Wilson and Wilkins on 29 June 2009.⁴⁹⁰¹

⁴⁸⁹³ Exhibit RC1072 Email from David Ryan to Findlay McRae, 25 June 2009, VPL.0005.0018.0174.

⁴⁸⁹⁴ Exhibit RC1658 Unsigned confidential affidavit of Stephen Waddell, 24 June 2009, VPL.0098.0014.0014.

⁴⁸⁹⁵ Exhibit RC1658 Unsigned confidential affidavit of Stephen Waddell, 24 June 2009, 13 [46] VPL.0098.0014.0014 @.0026.

⁴⁸⁹⁶ Exhibit RC1658 Unsigned confidential affidavit of Stephen Waddell, 24 June 2009, 13 – 14 [47] VPL.0098.0014.0014 @.0026 - .0027.

⁴⁸⁹⁷ Exhibit RC1658 Unsigned confidential affidavit of Stephen Waddell, 24 June 2009, 13 – 14 [47] VPL.0098.0014.0014 @.0026 - .0027.

⁴⁸⁹⁸ Exhibit RC1658 Unsigned confidential affidavit of Stephen Waddell, 24 June 2009, 14 [48] VPL.0098.0014.0014 @.0027.

⁴⁸⁹⁹ Exhibit RC1658 Unsigned confidential affidavit of Stephen Waddell, 24 June 2009, 14 [50] VPL.0098.0014.0014 @.0027.

⁴⁹⁰⁰ Exhibit RC0305 Mr Sandy White diary, 30 June 2009, VPL.2000.0001.1952 @.1981; Exhibit RC0284 SML2958, 1 July 2009, 71, VPL.2000.0001.9236 @.9306; Exhibit RC1755 Electronic calendar meeting note for Briars Taskforce with handwritten notes, 29 June 2009, Assistant Commissioner Luke Cornelius' Briars file, 354, VPL.0100.0058.0798 @.1151.

⁴⁹⁰¹ Exhibit RC1022 Assistant Commissioner Luke Cornelius' file note of Taskforce Briars meeting, 15 June 2009, VPL.0005.0012.0836

1 July 2009 – Briars Receives Further SDU Material

3729. By late June 2009, the further material requested by Mr Waddell had been compiled by the SDU. On 30 June 2009, Mr Sandy White arranged to meet with him the next day to hand over the documents. He advised that there were also 21 recordings with an average four-hour duration and recommended that Mr Waddell peruse the document to determine the priority in which he wanted the recordings.⁴⁹⁰²
3730. On 1 July 2009, Mr Sandy White met with Mr Waddell and handed over the further material. This comprised of a 115-page document containing the search results for the additional names and locations requested, where the first entry was dated 16 September 2005. The document highlighted in red the in person meetings for which there were audio recordings.⁴⁹⁰³
3731. During the meeting Mr Waddell discussed with Mr Sandy White the issue related to the subpoena issued by Mr Tony Mokbel. In relation to this, Mr Sandy White noted that:
- the DPP, Mr Jeremy Rapke QC, was aware that Ms Gobbo was (a potential) witness
 - lawyers for Tony Mokbel, who was facing the charge of murdering Lewis Moran, had subpoenaed material relevant to the credit of Mr Gregory
 - the Briars Taskforce had attempted to fight the request which could encompass SDU material, and had lodged a confidential affidavit with the trial judge
 - the trial judge would not entertain the confidential affidavit indicating that he ran a transparent court and no secrets would be kept from officers of the court
 - consequently, Mr Rapke had advised that this decision might have to be appealed, or the matter withdrawn
 - Mr Waddell was meeting with Mr Cornelius about the issues that day
 - Mr Sandy White advised that Ms Gobbo was not yet a Briars Taskforce witness and material from the SDU should be subject to an (informer) privilege claim.⁴⁹⁰⁴
3732. On 2 July 2009, Mr Waddell emailed Mr Sandy White indicating he would need to listen to all but a number of specified audio recordings. He asked how long it would take to produce the remaining recordings noting that there was some urgency following his meeting with Mr Cornelius the previous day about how they would approach the subpoena issue. Mr Sandy White

⁴⁹⁰² Exhibit RC0305 Mr Sandy White diary, 30 June 2009, VPL.2000.0001.1952 @.1981.

⁴⁹⁰³ Exhibit RC0305 Mr Sandy White diary, 30 June 2009, VPL.2000.0001.1952 @.1981; ; Exhibit RC0284 SML2958, 1 July 2009, 71, VPL.2000.0001.9236 @.9306; Exhibit RC0524 ICR Summary of Extracts for Operation Briars, 16 September 2005 – 30 December 2005, metadata suggests saved on 29 June 2009, VPL.2000.0001.0403.

⁴⁹⁰⁴ Exhibit RC0305 Mr Sandy White diary, 30 June 2009, VPL.2000.0001.1952 @.1981; Exhibit RC0284 SML2958, 1 July 2009, 71, VPL.2000.0001.9236 @.9306.

forwarded the email to an SDU analyst asking how long Mr Waddell's request would take.⁴⁹⁰⁵

3733. On around 3 July 2009, Mr Sandy White provided Mr Waddell with the audio recordings. A document was prepared for signing by Mr Waddell indicating the recordings received, and their lengths, and an undertaking that the recordings would not be further disseminated without the express approval of Mr Biggin. This table was reproduced in the SML relating to Ms Gobbo.⁴⁹⁰⁶
3734. On 6 July 2007, Mr Biggin requested Mr Black compile an updated risk assessment in relation to Ms Gobbo in response to Briars Taskforce taking a statement from her and calling her as a witness against Mr Waters and others. He commenced this the following day. He also collated diary entries from assorted meetings in relation to the Briars Taskforce 'demand' for additional material.⁴⁹⁰⁷

Mid July 2009 – Waddell Assessment of Further SDU Material

3735. During his review of the SDU material, Mr Waddell prepared a document, entitled 'Summary – witness' in which he set out issues that were of concern to him in light of the SDU material.⁴⁹⁰⁸ These included:
- concerns as to grave credibility issues affecting Ms Gobbo given the difference in her account between January 2008 and her statement in Bali in May 2009, particularly in regard to Mark Perry
 - whether Ms Gobbo was acting for Mr Waters as his lawyer
 - whether the statement could be used in evidence
 - that Ms Gobbo was very keen to assist and there was a risk of embellishment and exaggeration
 - that there was a medical and psychiatric issue and the use of drugs by Ms Gobbo, who'd suffered a stroke in 2004.
3736. Prior to listening to the tapes Mr Waddell understood that Ms Gobbo had a social relationship with Mr Waters, although had acted for him once in relation to an application brought by police in the Magistrates' Court to cross-examine him. His view was that the recordings put a different complexion on their relationship, such that Mr Waters might have understood Ms Gobbo to be his lawyer. He became concerned as he was aware there were restrictions as to what lawyers might disclose about their clients.⁴⁹⁰⁹
3737. On 13 July 2009, a Briars Taskforce Management Committee meeting took place. Mr Cornelius noted a report from Mr Waddell that he was two thirds

⁴⁹⁰⁵ Exhibit RC1024 Email from Stephen Waddell to Sandy White, 2 July 2009, VPL.6025.0013.2607.

⁴⁹⁰⁶ Exhibit RC1025 Receipt and undertaking by Stephen Waddell in relation to SDU recordings of Ms Nicola Gobbo meetings, 3 July 2009, VPL.2000.0001.9599; Exhibit RC0284 SML2958, 3 July 2009, 71, VPL.2000.0001.9236 @.9306.

⁴⁹⁰⁷ Exhibit RC0591 Mr Black diary, 7 July 2009, 704, RCMPI.0090.0001.0001 @.0704.

⁴⁹⁰⁸ Exhibit RC1196 Statement of Stephen Waddell, 17 September 2019, 11 [60], VPL.0014.0055.0001 @.0011; Exhibit RC1203 Document entitled 'Summary – witness' prepared by Stephen Waddell in July 2009, VPL.0005.0012.0828.

⁴⁹⁰⁹ Exhibit RC1196 Statement of Stephen Waddell, 17 September 2019, 11 [60], VPL.0014.0055.0001 @.0011.

of the way through the material received from the SDU and noted 'summary to date reviewed'.⁴⁹¹⁰ Following this in Mr Cornelius' Briars file was the 'Summary – witness' document prepared by Mr Waddell.⁴⁹¹¹

15 July 2009 – Waddell Seeks Legal Advice regarding Gobbo LPP Issue

3738. On the night of 15 July 2009, Mr Waddell emailed Mr Cornelius seeking authority to engage Mr Maguire to provide advice on the admissibility of aspects of Ms Gobbo's statement. He wrote:

*I am seeking your authority to further engage Gerard McGuire (sic) to provide advice on the admissibility or otherwise of certain aspects of 3838 statement. There are a number of issues effecting (sic) the admissibility of some parts of the statement including potential legal professional privilege, opinion and probative vs prejudicial value. This advice is important in ensuring the board is properly informed when making their decision as to whether to proceed. As Gerard can be trusted and is already across the issues I see him as posing no additional risk to the security of this.*⁴⁹¹²

3739. On 17 July 2009, Mr Cornelius forwarded this email to Mr McRae, copied to Mr Waddell asking that Mr Maguire be instructed within the terms indicated by Mr Waddell.
3740. It was put to Mr McRae that he must have been aware that the potential witness in the Briars Taskforce matter for which Mr Waddell was seeking advice was a lawyer who was a police informer given the number allocated to identifying the person and that advice was being sought about the statement potentially including matters in breach of legal professional privilege.
3741. Mr McRae told the Commission that he was not 'across the numbering system for the Source Development Unit', and that he would have received the email from Mr Waddell and considered that the person referred to as '3838' was a witness.⁴⁹¹³ He said that he would not have 'spent any time considering the detail' and that he would have 'got it off to the instructors so that they could get the police instructor involved'.⁴⁹¹⁴ Mr Cornelius however gave evidence to the Commission that at this time, Mr McRae was aware of Ms Gobbo's identity in relation to both Taskforce Petra and Briars.⁴⁹¹⁵
3742. On 27 July 2009, a Briars Taskforce Management Committee meeting took place, attended by Messrs Cornelius, Ashton, Moloney, Wilson, Waddell and Wilkins.⁴⁹¹⁶ It is apparent that in addition to the admissibility matters raised above, Mr Maguire had been asked to advise on the prospect of protecting

⁴⁹¹⁰ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 20 [115], VPL.0014.0057.0001 @.0020.

⁴⁹¹¹ Exhibit RC1203 Document entitled 'Summary – witness' prepared by Stephen Waddell in July 2009, VPL.0005.0012.0828.

⁴⁹¹² Exhibit RC1026 Email chain involving Stephen Waddell, Luke Cornelius and Findlay McRae, 15-18 July 2009, VPL.6049.0017.2347.

⁴⁹¹³ Transcript of Mr Findlay McRae, 30 January 2020, 12661-12662, TRN.2020.01.30.01.

⁴⁹¹⁴ Transcript of Mr Findlay McRae, 30 January 2020, 12663, TRN.2020.01.30.01.

⁴⁹¹⁵ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12483, TRN.2020.01.29.01.

⁴⁹¹⁶ Exhibit RC1027 Assistant Commissioner Luke Cornelius' meeting notes, 27 July 2009, VPL.0005.0012.0816.

the statement from disclosure in the process of the Petra and Briars prosecutions should it not be relied upon. The update stated:

Witness F

Examination of notes and recordings revealed no inconsistency with draft statement with exception of issue in respect of Perry admission. Nil issue re OPI hearing.

Gerard McGuire examining statement re admissibility and probative issues. He will also provide advice on the prospect of statement being protected during discovery process of Petra/Briars prosecutions should we not rely on that statement.

Investigation cannot move forward until situation clarified with this witness - whether to proceed as a witness/entry to Witsec program.

3743. Beside the paragraph relating to Mr Maguire advising as to discovery, Mr Cornelius wrote 'advice ready in a fortnight'.

June - August 2009 – Gobbo Refers to Royal Commission

3744. On 17 July 2009, a meeting occurred attended by Messrs Cornelius, Moloney, Wilson, Smith, O'Connell, McRae, Always and [REDACTED] (the latter two from the WSU) where an update was provided and discussion was had as to the way to proceed. Mr Cornelius noted a timing issue in relating to the return of the subpoenas on 28 August 2009.⁴⁹¹⁷
3745. On 27 July 2009, members of the WSU met with Ms Gobbo and had discussions as to her entry into the WPP. Later, Mr Hart emailed Mr Cornelius referring to the meeting with Ms Gobbo that day and that there were some matters which required discussion. A meeting was arranged the following morning.⁴⁹¹⁸
3746. On 28 July 2009, at 9:00am the meeting took place with Messrs Cornelius, Smith, Hart and Officer 4 and Superintendent Jeff Forti of the WSU. Issues relating to negotiations with Ms Gobbo were discussed, and again the return of subpoena on 28 August 2009 was noted by Mr Cornelius.⁴⁹¹⁹
3747. That day, at 11:04am, Ms Gobbo sent an email with the subject, 'Discussion yesterday', to Officer 4. The email attached a document which was said to provide a basic summary to allow the WSU member to understand her position.⁴⁹²⁰ The attached document was headed 'Issues to Consider', and indicated that Ms Gobbo had been given assurances about certain matters when she had become a witness by Mr O'Connell, stating:

- *I have maintained since January 2009 that I am prepared to be part of the Witsec program albeit on a flexible and different basis to the manner in which I understand it usually operates. In fact when I was persuaded to make a statement (and to sacrifice my career and future in doing so),*

⁴⁹¹⁷ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 21-22 [125], VPL.0014.0057.0001 @.0021 - .0022; Exhibit RC1777 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 17 July 2009, VPL.0005.0012.3435.

⁴⁹¹⁸ Exhibit RC1665 Email chain involving Mr James Hart and Assistant Commissioner Luke Cornelius, 28 July 2009, VPL.0005.0012.3431.

⁴⁹¹⁹ Exhibit RC1777 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 28 July 2009, VPL.0005.0012.3429.

⁴⁹²⁰ Exhibit RC1029 Email from Ms Nicola Gobbo to Officer 4 and Petra handler, with attachment, Issues to Consider, 28 July 2009, MIN.5000.0001.5012, MIN.5000.0001.5013.

Shane assured me that Overland was very supportive and understood what a significant cost this would be to VicPol. I was under the impression that there would be as Shane said “can do” people prepared to resolve my position. (It goes without saying that I probably should have refused to sign my statement until all of this mess was resolved as that would have meant a much faster process as Dale couldn’t have been arrested absent my signed statement).

- *I indicated to Shane that whilst I was not the slightest bit interested in living under the regime of WitSec and its rigid program, I wanted to be part of it because of the significant protections the Act affords both a witness and in turn, the prosecution with respect to disclosure.*
- ...
- ***Given what I have done for VicPol since September 2005, it is my view that should my status be revealed at any point or the particular groups against whom I have actively worked or provided intelligence about be revealed** (directly or indirectly) or flagged by some ridiculous claim for “PII” then two outcomes are certain:*
- ***There will be nowhere safe for me anywhere and there may be a call for a Royal Commission given the particular organised crime groups whom I have worked against. The impact of all of that on the successful prosecution of Dale and my ability to withstand cross-examination seems pretty obvious** (assuming I was alive to give evidence). A claim for “PII” in my view simply translates to confirmation of a person being an informer; this is the conclusion that will be reached by the criminal fraternity whom you fear will harm me or kill me. Absent the protection of the program that is what lies ahead for me.*
- ...
- *You can well understand that I am fairly close to walking away from all of this, principally because of the effect it’s all having on my health and in turn, on members of my immediate family.⁴⁹²¹ (emphasis added)*

3748. Around this time Officer 4 arranged for the briefing of Mr Peter Hanks QC of counsel to advise on issues relating to the payment of financial assistance to a witness in a number of circumstances, including:

- where the witness was a participant in the WPP and where the witness had refused to enter the WPP
- [REDACTED]
- where the circumstances of the witness and or the threat level to the witness was such as to prevent them from continuing their former business or profession until they had completed giving evidence and where they may be unable to resume their former business or profession by virtue of their information and assistance

⁴⁹²¹ Exhibit RC1029 Email from Ms Nicola Gobbo to Officer 4 and Petra handler, with attachment, Issues to Consider, 28 July 2009, MIN.5000.0001.5012, MIN.5000.0001.5013.

- the application of PII to prevent disclosure to a court of a memorandum of understanding or the answering of questions regarding the amount and terms of financial assistance provided by the Chief Commissioner of Police to the witness.⁴⁹²²
3749. On 29 July 2009, Mr Steven Smith recorded in his diary a conversation with Mr Cornelius, who reported on a conversation with Mr Hart. Mr Hart had indicated that in discussion with the WSU, Ms Gobbo had made it clear that sticking points in negotiations had been based upon assurances she had received from Petra Taskforce personnel. Mr Steven Smith then spoke with Mr Hart who told him about the email from Ms Gobbo. A meeting was arranged the following day at the WSU office.⁴⁹²³
3750. On 30 July 2009, Messrs Steven Smith and O'Connell attended at the WSU office for a meeting with Messrs Hart, Alway and Officer 4 in relation to Ms Gobbo.⁴⁹²⁴
3751. On 3 August 2009, Mr Steven Smith spoke with Mr Cornelius about the situation in relation to Ms Gobbo.⁴⁹²⁵
3752. On 5 August 2009, at 10:36am, Ms Parsons of the VGSO emailed Messrs Officer 4, Alway, and McRae with the advice from Mr Hanks, including an executive summary in the body of the email. The advice outlined the circumstances and basis upon which payment could be made within or outside of the WPA. It also advised that PII would not protect the content of the MOU or the amount and terms of financial assistance from disclosure in the course of cross-examination of the witness, as long as the [REDACTED]. Similar considerations would apply outside the confines of the legislation.⁴⁹²⁶
3753. At 11:30am, an extraordinary meeting of the Petra Taskforce Management Committee took place in Mr Cornelius office, which was attended by Messrs Cornelius, Moloney, Ashton, McRae, Steven Smith and Hart. The request was sent as an 'urgent meeting to discuss issues around 'Witness F'.
3754. During the meeting, the Board were briefed by Mr Steven Smith that Ms Gobbo was 'refusing to budge' on her demands to join the WPP and had started 'making noises' about not giving evidence on medical grounds.
3755. Amongst other matters there was also reference to:
- discussion about the payment of compensation to Ms Gobbo

⁴⁹²² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 12 [3.19], VPL.0014.0089.0003 @.0014; Exhibit RC1685 Email from Isabel Parsons to Officer 4, 5 August 2009, VPL.0005.0003.3412; Exhibit RC1684 Email from Isabel Parsons to Officer 4, 30 July 2009, VPL.0005.0003.3458.

⁴⁹²³ Exhibit RC1192 Detective Inspector Steven Smith diary, 29 July 2009, 188, RCMP.0126.0001.0007 @.0188.

⁴⁹²⁴ Exhibit RC1192 Detective Inspector Steven Smith diary, 29 July 2009, 189, RCMP.0126.0001.0007 @.0189.

⁴⁹²⁵ Exhibit RC1192 Detective Inspector Steven Smith diary, 3 August 2009, 191, RCMP.0126.0001.0007 @.0191.

⁴⁹²⁶ Exhibit RC1685 Email from Isabel Parsons to Officer 4, 5 August 2009, VPL.0005.0003.3412; Exhibit RC1744 Memorandum of advice from Mr Peter Hanks, 5 August 2009, VPL.0005.0003.3416.

- advice from Mr Peter Hanks that the police could not rely on provisions of the Witness Protection Act to avoid disclosure of the compensation to Ms Gobbo
 - Ms Gobbo's evidence being critical to the success of the prosecution; she was needed to corroborate Mr Carl Williams
 - the need to speak with the Prosecution in relation to the 'compensation issue', and the option of conducting an OPI hearing
 - a decision to draft a [REDACTED].⁴⁹²⁷
3756. In respect of this latter point, Mr McRae's file contains a draft letter in his handwriting, as well as a typed version which is contained along with Mr Hanks' advice.⁴⁹²⁸
3757. It is apparent that at this meeting the briefing by Mr Steven Smith had been aided by a document titled '*Timeline report for Smith from 08/03/2009 to 31/07/2009*' which provided a summary of some interactions with Ms Gobbo and her attitude [REDACTED], giving an overview as to her moods and her erratic nature.⁴⁹²⁹ Mr Cornelius was asked during his evidence to the Commission if he recalled such matters being discussed at the extraordinary meeting on 5 August 2009. He said he could not recall the specifics but did have a general recollection of having been appraised of the ups and downs in dealing with Ms Gobbo.⁴⁹³⁰
3758. Mr Cornelius was taken to a number of specific entries in the document, including that:
- on 26 June 2009, Ms Gobbo said she would 'walk away' if she was given \$30 million dollars or a percentage of the money or assets that she had a direct involvement in the police having restrained
 - on 9 July 2009, Ms Gobbo mentioned how she had single-handedly orchestrated the seizure of \$70 to \$80 million worth of assets and wanted a figure of \$30 million, then she would 'walk away' and turn up for court
 - Ms Gobbo had said 'Tell Simon (Overland) to tell those idiots to be flexible. VicPol has cost me millions and my health'.
3759. Mr Cornelius said he did not recall Ms Gobbo nominating a figure for compensation, or as to her indicating she had been responsible for such an

⁴⁹²⁷ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 22 [125], VPL.0014.0057.0001 @.0022; Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12490, TRN.2020.01.29.01; Exhibit RC1079 Meeting invite with handwritten notes of Assistant Commissioner Luke Cornelius, 5 August 2009, VPL.0005.0012.3359; Exhibit RC1067, Statement of Mr Findlay McRae, 13 November 2019, 13 [3.20], VPL.0014.0089.0003 @.0015.

⁴⁹²⁸ Exhibit RC1743 Memorandum of advice from Mr Peter Hanks, 5 August 2009, VPL.0005.0003.3416; Exhibit RC1710 Handwritten draft letter to Ms Nicola Gobbo by Mr Findlay McRae, undated, VPL.0005.0003.3453.

⁴⁹²⁹ Exhibit RC1030, Timeline report for Detective Inspector Steven Smith from 8 March 2009 – 31 July 2009, VPL.0100.0237.2356.

⁴⁹³⁰ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12490, TRN.2019.01.29.01; RC1192, Detective Inspector Steven Smith diary, 5 August 2019, 76 RCMPI.0126.0001.0007, P.192

amount of assets being seized. He agreed that if he had he would have asked, 'What's she talking about, what's going on?'⁴⁹³¹

3760. On 6 August 2009, Mr Steven Smith spoke with Mr Maguire a number of times about the 'Witness F issue'.⁴⁹³² It seems likely that this would have been about credit issues given Ms Gobbo's claims for compensation, the advice of Mr Hanks that information of this nature could not be protected from disclosure, and the discussion at the meeting the previous day of the need to speak with the prosecution about the 'compensation issue'.
3761. On 12 August 2009, Mr Smith followed up on a request from Mr Cornelius arising out of the extraordinary meeting the previous week, sending him an email with an attached document.⁴⁹³³ The email stated:

As discussed during meeting at your office on 05 August 2009; please find attached report from Detective Sergeant Lloyd summarising contacts and discussions with Witness F and the Petra Taskforce in relation to the issues of risk and the Witness Protection Program.

The Report uses selected contacts as representative samples as there are too many to list in their entirety together with the resultant conversations being extremely lengthy; although (as mentioned in the report) the theme of these contacts is constant throughout.

3762. The attached document contained the same information as the 'Timeline' document, which had been put into the form of a memorandum with some introductory paragraphs. These introductory paragraphs explained that Petra Taskforce members had recorded more than 75 hours of contact with Ms Gobbo, as well as in excess of 1000 SMS messages and numerous emails.
3763. Mr Cornelius was asked questions about what he had done when he read those parts of the document referring to Ms Gobbo's nomination of \$30 million to resolve the matter and her being responsible for the seizure of \$70 to \$80 million dollars' worth of assets:

MS TITTENSOR: What did you do about that?

MR CORNELIUS: Well I don't recall doing anything about it, I actually don't recall attaching any weight to what she was saying here. If anything, I think I regarded what she was saying here as being, if you like, diatribe or self-interested puff.

MS TITTENSOR: So you read it and you just ignored that?

MR CORNELIUS: Well look, I don't know that I ignored it. I mean my response to this was then to review, with the people who were responsible for ultimately managing her movement into the Witness Protection Program, whether or not ultimately we

⁴⁹³¹ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12491, TRN.2019.01.29.01

⁴⁹³² Exhibit RC1192 Detective Inspector Steven Smith diary, 3 August 2019, 194, RCMPI.0126.0001.0007 @.0194.

⁴⁹³³ Exhibit RC1031 Email from Steven Smith to Luke Cornelius, with attachment, VP0047 Witness F [REDACTED] 12 August 2009, VPL.6049.0018.6208, VPL.6049.0018.6209.

needed, if you like, to provide a final ultimatum about her entry into the program.

MS TITTENSOR: Did you say to anyone, "What she's talking about? Single-handedly orchestrating the seizure of \$70 to 80 million in assets? How could - what is she talking about, is this woman crazy?" Did you say that to anyone?

MR CORNELIUS: No, I don't recall raising that.

MS TITTENSOR: It just didn't occur to you?

MR CORNELIUS: I don't recall it occurring to me, no.

MS TITTENSOR: Didn't occur to you that she might have been assisting police and the SDU beyond the Briars investigation?

MR CORNELIUS: No, it didn't.

MS TITTENSOR: Doesn't that actually directly indicate to you that she was indicating she had been?

MR CORNELIUS: I didn't attach - I don't recall attaching any credibility to this in the sense that what I was reading here was what I had been given to understand and that was that Ms Gobbo was given to ranting and raving in relation to our efforts to get her into the Witness Protection Program and that's how I characterised this.

MS TITTENSOR: And this is someone you wanted to put up as a witness of credit in Petra?

MR CORNELIUS: Well, we were going through a process of course of assessing her credit.

MS TITTENSOR: She was already a witness in Petra, wasn't she?

MR CORNELIUS: Yes.

MS TITTENSOR: As far as you were concerned was this material all going to be disclosed to the defence in Petra?

MR CORNELIUS: Well, my view was that if there were matters which went to her credibility, then those matters ought be disclosed and they ought be disclosed to the prosecuting entity.

MS TITTENSOR: If you look at this, what would you say about that and her credibility?

MR CORNELIUS: Well I don't know particularly that it's relevant to her credibility as a witness.

August 2009 – Preliminary Advice from Maguire

3764. On 10 August 2009, a Petra Taskforce Management Committee meeting took place attended by Messrs Cornelius, Ashton, and Hollowood.⁴⁹³⁴ Mr Moloney was an apology. The written update reported, amongst other matters, that:
- a brief had been served upon Mr Dale and his co-accused, Rodney Collins, and 'Form 10A' requests had been received from the defence seeking to cross-examine witnesses at the committal. It would be expected that this document also called for disclosure to the defence of relevant material not relied upon by the prosecution
 - the committal date was 9 March 2010 with an estimated duration of three weeks
 - both Messrs Dale and Collins had indicated they would be issuing subpoenas to produce material, and that a special mention date of 28 August 2009 had been listed in relation to that matter
 - on 7 August 2009 a meeting had been conducted at the Petra office with Mr Maguire, the barrister for Victoria Police in relation to subpoena issues, and he would liaise with both the Petra and Briars Taskforces in relation to all subpoena and discovery issues
 - a further application for bail by Mr Dale had been refused that morning.⁴⁹³⁵
3765. On 24 August 2009, at around 4:00pm, a meeting of the Petra Taskforce Management Committee took place, attended by Messrs Cornelius, Moloney, Ashton, Hollowood, Steven Smith and Wilkins.⁴⁹³⁶ The written update states, amongst other matters, that:
- a subpoena had been received earlier that day from solicitors representing Mr Collins which was available for perusal for which the Court had ordered a response as to what Victoria Police would be prepared to provide, refuse or sanitise and would they require an adjournment to do so
 - an issue concerning Gerard Maguire had arisen.⁴⁹³⁷
3766. Mr Cornelius made notes of the need to discuss with Mr McRae the need to '*Brief new PII -> to replace Gerard McGuire (sic)*'.⁴⁹³⁸ This appears to be a decision to brief a barrister, other than Mr Maguire to deal with disclosure and PII matters.

⁴⁹³⁴ Exhibit RC1777 Assistant Commissioner Luke Cornelius electronic calendar entry with handwriting, 10 August 2009, VPL.0005.0012.3341.

⁴⁹³⁵ Exhibit RC1765 Interpose record of Petra Taskforce updates, 10 August 2009, 428-433, VPL.0100.0020.5275 @.5702 - .5703.

⁴⁹³⁶ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 22 [127], VPL.0014.0057.0001 @.0022; Exhibit RC1032 Electronic Calendar entry with Assistant Commissioner Luke Cornelius' handwriting, 24 August 2009, VPL.0005.0012.3323.

⁴⁹³⁷ Exhibit RC1765 Interpose record of Petra Taskforce updates, 24 August 2009, 433-439, VPL.0100.0020.5275 @.5707 - .5713.

⁴⁹³⁸ Exhibit RC1032 Electronic Calendar entry with Assistant Commissioner Luke Cornelius' handwriting, 24 August 2009, VPL.0005.0012.3323.

3767. This meeting was followed at around 4:30pm, by a meeting of the Briars Taskforce Management Committee, attended by Messrs Cornelius, Ashton, Moloney, Waddell and Officer Terrasse. The written update stated that Mr Maguire was still examining Ms Gobbo's statement and that:

Early advice from Maguire is that witnesses (sic) past can probably be protected in prosecution of Dale.

On other hand it is probable that if Perry is charged with murder it is probable that extent of witness assistance will be known.⁴⁹³⁹

3768. The note provides an indication of Mr Maguire's preliminary view, which appears to be that if Mr Perry were to be charged with murder, then it would probably be necessary to disclose information that would lead to the exposure of Ms Gobbo's relationship with police.
3769. The next day Mr Steven Smith spoke with Mr McRae about Ms Gobbo and 'subpoena issues' and the need for a new barrister to be appointed.⁴⁹⁴⁰
3770. It appears that Mr Steven Smith was receiving information relating to Mr Maguire's preliminary views, as was Mr Waddell.
3771. The note at the 4:30 pm meeting suggests that Mr Maguire was still retained (which would indicate that Mr Maguire had not determined he could not retain the brief), as he was said to be in the process of examining Ms Gobbo's statement, however for reasons that are not clear from the notes, it was felt that a new barrister was needed.

August 2009 – Second VicPol Letter to Gobbo

3772. Victoria Police continued to negotiate with Ms Gobbo regarding her entry into the WPP to no avail.⁴⁹⁴¹ Following on from the earlier decision to draft a letter to Ms Gobbo about the need to enter the WPP, a decision was made to send it.
3773. On 25 August 2009, Mr Steven Smith sent an email to Mr McRae advising him that there was to be a meeting at 5.00pm that evening with Ms Gobbo which would be an appropriate opportunity to serve the letter on her if it were ready.⁴⁹⁴²
3774. On 26 August 2009, Messrs Cornelius, McRae, Steven Smith and Alway met in relation to the letter to be sent to Ms Gobbo. They then attended Mr Overland's office where Deputy Commissioner Walshe signed the letter.⁴⁹⁴³
3775. Mr Cornelius then advised Mr Forti at the WSU that the second letter to Ms Gobbo had been signed by Mr Walshe and would be served the following

⁴⁹³⁹ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 22 [127], VPL.0014.0057.0001 @.0022; Exhibit RC1032 Electronic Calendar entry with Assistant Commissioner Luke Cornelius' handwriting, 24 August 2009, VPL.0005.0012.3323.

⁴⁹⁴⁰ Exhibit RC1192 Detective Inspector Steven Smith diary, 25 August 2009, 204 RCMP.0126.0001.0007 @.0204.

⁴⁹⁴¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 13 [3.22], VPL.0014.0089.0003 @.0015.

⁴⁹⁴² Exhibit RC1074 Email from Steven Smith to Findlay McRae, 25 August 2009, VPL.6023.0166.9970; Transcript of Mr Findlay McRae, 31 January 2020, 12670, 2020.01.31.01.

⁴⁹⁴³ Exhibit RC1192 Detective Inspector Steven Smith diary, 26 August 2009, 205, RCMP.0126.0001.0007 @.0205.

day. In an email the following morning he advised further that Mr Steven Smith would be serving her with the letter this morning and there was 'More to come...'.⁴⁹⁴⁴

3776. On 27 August 2009, Mr Steven Smith met with Ms Gobbo along with a Petra handler and provided her with the letter. That afternoon he reported to Mr Cornelius on the outcomes of the meeting with Ms Gobbo.⁴⁹⁴⁵

3777. The letter from Mr Walshe to Ms Gobbo, dated 26 August 2009, set out matters in seeking her urgent acceptance of an offer to participate as a protected witness in the WPP.⁴⁹⁴⁶ This included:

- the extended negotiations between Ms Gobbo and Victoria Police
- Ms Gobbo's extreme risk of harm because the criminal community know that she is to give evidence in the Dale matter, and it may be assumed that she may give evidence in other matters
- the death threats Ms Gobbo received by text message
- the consequential risk to police officers who had assumed responsibility for her protection
- the ad hoc security arrangements represent an unacceptable risk to Ms Gobbo and will be discontinued on 3 September 2009
- Ms Gobbo has a choice to participate in the Witness Protection Program
- the financial assistance provided to Ms Gobbo is at the absolute discretion of the Chief Commissioner and will consist of a contribution of \$1,000 per week towards her living expenses.

3778. On 1 September 2009, Ms Gobbo sent Mr Walshe a 'holding' letter acknowledging receipt of Mr Walshe's letters dated 4 June 2009 and 26 August 2009 and noting that she was obtaining legal advice before responding.⁴⁹⁴⁷

7 September 2009 – Gobbo Threatens to Sue

3779. On 7 September 2009, at around 4:00pm, a meeting of the Petra Taskforce Management Committee took place, attended by Messrs Cornelius, Ashton, Hollowood, Steven Smith and Wilkins.⁴⁹⁴⁸ The written update advised that Mr Ron Gipp of counsel had been briefed to appear for Victoria Police at the special mention on 28 August 2009, which had been adjourned to 1 October 2009, when he would be required to advise what the police would provide

⁴⁹⁴⁴ Exhibit RC1663 Email chain involving Jeffrey Forti, Bruce Wemyss and Luke Cornelius, 26 and 27 August 2009, VPL.0013.0001.0037.

⁴⁹⁴⁵ Exhibit RC1192 Detective Inspector Steven Smith diary, 27 August 2009, 206 RCMP.0126.0001.0007 @.0206.

⁴⁹⁴⁶ Exhibit RC1033b Letter to Witness F from Deputy Commissioner Kieran Walsh, 26 August 2009, VPL.0100.0237.1171.

⁴⁹⁴⁷ Exhibit RC1724 Letter from Ms Nicola Gobbo to Deputy Commissioner Kieran Walshe, 1 September 2009, VPL.0100.0237.4769.

⁴⁹⁴⁸ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 22 [129], VPL.0014.0057.0001 @.0022; Exhibit RC1056 Petra Taskforce Update with Assistant Commissioner Luke Cornelius' handwritten notes, 7 September 2009, VPL.0100.0046.2426.

and where objection would be taken. It was noted that there had not yet been a subpoena request from Mr Dale.⁴⁹⁴⁹

3780. At the commencement of this meeting, Mr Steven Smith delivered to Mr Cornelius a copy of a letter written by Ms Gobbo to Mr Overland. He noted in the top corner '*Copy rec'd per hand. Insp. Smith. 1600h 7.9.9*'.⁴⁹⁵⁰
3781. In short Ms Gobbo was threatening to commence legal proceedings against Victoria Police and required a response to the various matters raised by her in the letter by 14 September 2009. A reader of the letter would have been informed, amongst other matters, that:
- Ms Gobbo had provided Victoria Police with unprecedented assistance between 2005 and 2009, which included but was not limited to the successful prosecution of numerous significant organised crime figures
 - Ms Gobbo was concerned that a claim of PII by police in relation to material about her, would in and of itself expose her as a human source
 - Ms Gobbo was concerned that her previous assistance to Victoria Police and her current assistance with other investigations should not be disclosed in the course of pre-trial proceedings relating to the Petra Taskforce investigation.
3782. On the first page of the letter Ms Gobbo referred to:
- the historical matters giving rise to her dealings with Victoria Police
 - her reluctance to formally engage legal representation due to the '*significant and highly sensitive information relevant to any consideration of the entirety of [her] circumstances*'
 - Mr Overland no doubt being well aware of some of the previous matters in which she had assisted Victoria Police which are too sensitive to be explained to independent counsel and which it was not prudent to refer to in detail in the letter.
3783. At paragraph 11 of her letter, Ms Gobbo referred to having been informed that the risk to her life was at the highest level on two bases:
- the 'previous unprecedented assistance (2005-2009)' which she had provided to Victoria Police voluntarily and absent any inducement or reward to date, 'including but not limited to the successful prosecution of numerous significant organised crime figures'
 - the fact of her giving evidence against Dale.
3784. At paragraphs 33 and 34 of her letter, Ms Gobbo referred to concerns about the police claiming PII in relation to material about her, the claiming of which

⁴⁹⁴⁹ Exhibit RC1765 Interpose record of Petra Taskforce updates, 24 August 2009, 439-445, VPL.0100.0020.5275 @.5713 - .5719.

⁴⁹⁵⁰ Exhibit RC0947 Letter to Chief Commissioner Simon Overland from Ms Nicola Gobbo, 7 September 2009, VPL.0005.0012.3299.

she believed would expose her as a human source, which she believed could be prevented if she was covered by the Witness Protection Act 1991.

3785. At paragraph 45 of her letter, under the heading 'Position moving forward', Ms Gobbo referred to her concern that her previous assistance to Victoria Police and her current assistance with other investigations not be disclosed in the course of pre-trial proceedings relating to the Petra Taskforce investigation, and stated that '*I need not remind you of the difficulties that Victoria Police may encounter if some or any of my past assistance comes out in the prosecution of Dale.*'
3786. A copy of the 7 September 2009 Petra Taskforce update included a section on Ms Gobbo. Underneath this in the handwriting of Mr Wilson, then the Chief of Staff to Mr Overland who was present to attend the Briars Taskforce meeting which followed, was a notation that Mr Cornelius was to meet with Mr McRae to formulate a response to Ms Gobbo's letter by the due date.⁴⁹⁵¹

September 2009 – Knowledge of Ms Gobbo's 7 September 2009 Letter

Mr Overland

3787. Mr Overland adverted to Ms Gobbo's 7 September 2009 letter in his statement to the Commission:

*Mr Fin McRae, the Director Legal came to know of Ms Gobbo's role as an informant and potential witness because of written correspondence she sent to Victoria Police (I think which was addressed to me), that culminated in legal action. Mr McRae was responsible for the management of these legal issues.*⁴⁹⁵²

3788. Mr Overland told the Commission that he would have seen this letter. He was taken to paragraphs of the letter referred to above, and said that he was very cognisant of the fact of the length of time she had been involved, the number of cases with which she had been involved and that he thought it inevitable that her role would be discovered if it hadn't already been by that time.⁴⁹⁵³

3789. **On the evidence, it is open to the Commissioner to find that, if he was not previously aware, upon reading Ms Gobbo's 7 September 2009 letter, Mr Overland knew that her role as a human source had not been disclosed or revealed during any legal proceedings. That is so because:**
- 3789.1. **the letter contained the phrase 'I need not remind you of the difficulties that Victoria Police may encounter if some or any of my past assistance comes out in the prosecution of Dale'; and**
- 3789.2. **not disclosing Ms Gobbo's role as a human source was consistent with plans to implement the 'barrier/break' strategy discussed with Mr Overland in December 2008 in the lead up to**

⁴⁹⁵¹ Exhibit RC1035 Petra Taskforce Weekly Update, 7 September 2009, with handwriting of Rodney Wilson, 629, VPL.0100.0129.0001 @.0629.

⁴⁹⁵² Exhibit RC0915 Statement of Mr Simon Overland, 19 September 2019, 20 [109], COM.0014.0001.0001 @.0020.

⁴⁹⁵³ Transcript of Mr Simon Overland, 19 December 2019, 11887, 2019.12.19.01.

Ms Gobbo becoming a witness for the Petra Taskforce which, it is submitted, was designed to attempt to avoid the disclosure of her role with the SDU during any subsequent prosecution of Mr Dale.

3790. If it is accepted that on or by 7 September 2009 Mr Overland knew that Ms Gobbo's role as a human source had not been disclosed or revealed during any legal proceedings, on the evidence, it is open to the Commissioner to find that from that date, Mr Overland failed to ensure that measures had been or were to be taken to ensure that Ms Gobbo's role was disclosed to people whose cases may have been affected by it.

Mr Cornelius

3791. In his evidence, Mr Cornelius said that he did not have time to read Ms Gobbo's 7 September letter because he received it just before the meeting started.⁴⁹⁵⁴ He recalled that Mr Steven Smith briefed the meeting attendees about the contents of the letter and as a result, they decided that the letter would be referred to Mr McRae for a response.⁴⁹⁵⁵ He said that he did not recall reading the letter following this and that he believed that matters such as those referred to above would have 'leapt out' at him.⁴⁹⁵⁶

3792. Mr Cornelius said that he did not recall having detailed involvement in formulating a response and instead referred it to Mr McRae to develop a response with Mr Ryan and Ms Parsons of the VGSO.⁴⁹⁵⁷ The reality was that Mr Cornelius attended a meeting at the Chief Commissioner's Office the next day,⁴⁹⁵⁸ and the VGSO the day after that.⁴⁹⁵⁹ He met with Messrs McRae, Steven Smith and Alway again on 14 September 2009.⁴⁹⁶⁰ That day a third letter to Ms Gobbo was signed under the hand of Deputy Commissioner Kieran Walshe and delivered to Ms Gobbo.⁴⁹⁶¹

⁴⁹⁵⁴ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12499 - 12500, TRN.2020.01.29.01.

⁴⁹⁵⁵ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12499 - 12500, TRN.2020.01.29.01.

Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12500, TRN.2020.01.29.01.

⁴⁹⁵⁷ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12503, TRN.2020.01.29.01.

⁴⁹⁵⁸ Exhibit RC1036 Assistant Commissioner Luke Cornelius' note of meeting, 9 September 2009, VPL.0005.0012.3277.

⁴⁹⁵⁹ Exhibit RC1036 Assistant Commissioner Luke Cornelius' note of meeting, 9 September 2009, VPL.0005.0012.3277; Exhibit RC1076, Mr Findlay McRae file note of 9 September 2009 meeting, marked Gobbo letter of 7 September 2009, VPL.0005.0003.3385; Exhibit RC1075, VGSO file note of meeting, 9 September 2009, VGSO.2000.1369.0065.

⁴⁹⁶⁰ Exhibit RC1774 Assistant Commissioner Luke Cornelius electronic calendar entry, 14 September 2009, VPL.0005.0012.3263.

⁴⁹⁶¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.26], VPL.0014.0089.0003 @.0016; Exhibit RC1037 Letter from Deputy Commissioner Kieran Walshe to Ms Nicola Gobbo, 14 September 2009, VPL.0005.0012.3217.

3793. **On the evidence, it is open to the Commissioner to reject Mr Cornelius' evidence that he did not read the letter. That is so because:**
- 3793.1. **he was the chair of both the Briars and Petra Taskforces, and had been handed the letter by the Officer in Charge of the Petra Taskforce**
 - 3793.2. **he had been regularly briefed in relation to the difficulties in negotiations with Ms Gobbo and had previously called an extraordinary meeting when Ms Gobbo indicated she may refuse to give evidence**
 - 3793.3. **Ms Gobbo was now threatening legal proceedings against Victoria Police and/or Mr Overland**
 - 3793.4. **as Assistant Commissioner of ESD, with legal qualifications, whose evidence was that he understood the ramifications of using a barrister as a human source, this was an opportunity available to Mr Cornelius to enlighten himself as to the history of the relationship between Ms Gobbo and Victoria Police.**

3794. **If it is accepted that, on the basis of the 7 September 2009 letter, Mr Cornelius knew that Ms Gobbo's role as a human source had not been disclosed or revealed during any legal proceedings, on the evidence, it is open to the Commissioner to find that from that date, Mr Cornelius failed to ensure that measures had been or were to be taken to ensure that Ms Gobbo's role was disclosed to people whose cases may have been affected by it.**

3795. **If Mr Cornelius's evidence that he did not read Ms Gobbo's 7 September 2009 letter is accepted, on the evidence, it is open to the Commissioner to find that Mr Cornelius should have done so. That is so for the reasons set out in paragraphs [3793.1] to [3793.4].**

Mr McRae

3796. Following this time Mr McRae received a version of Ms Gobbo's 7 September letter. The copy on which he made notes contained the written notation of receipt by Mr Cornelius.⁴⁹⁶²
3797. Mr McRae said that he made handwritten annotations on the letter and scanned it, but did not read it 'word for word'.⁴⁹⁶³ Mr McRae said that he

⁴⁹⁶² Exhibit RC1076, Mr Findlay McRae's file note of 9 September 2009 meeting, marked Ms Nicola Gobbo letter of 7 September 2009, VPL.0005.0003.3385.

⁴⁹⁶³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.24], VPL.0014.0089.0003 @.0016.

reviewed the letter with a view to understanding why Ms Gobbo was threatening to sue Victoria Police.⁴⁹⁶⁴ Mr McRae said he did not recall reading paragraph 11 and the reference to Ms Gobbo's 'previous unprecedented assistance (2005-2009)' at the time that he reviewed the letter.⁴⁹⁶⁵ He said that if he did read that paragraph at the time, he did not ascribe any significance to it because he placed no handwritten note beside it.⁴⁹⁶⁶ Mr McRae said that at that time he still understood that the assistance Ms Gobbo provided to Victoria Police was limited to her role as a witness in Mr Dale's committal because he had been told that Ms Gobbo had a tendency to exaggerate.⁴⁹⁶⁷

3798. On the evidence, it is open to the Commissioner to reject Mr McRae's evidence that he did not read Ms Gobbo's 7 September 2009 'word for word', and to find instead that he read and understood the letter, including the significance of the reference to Ms Gobbo's 'previous unprecedented assistance (2005-2009)'. That is so because:

- 3798.1. Mr McRae was the most senior lawyer for Victoria Police**
- 3798.2. he had involvement in the matter to this point, including in the drafting of the letter to Ms Gobbo which inspired this response**
- 3798.3. he made handwritten annotations on the letter and scanned it**
- 3798.4. he was trying to understand why Ms Gobbo was threatening to sue, and why she might have a claim against Victoria Police and, to understand this, it would be expected that he would read the letter carefully and seek to understand the phrase 'previous unprecedented assistance (2005-2009)'.**

3799. If it is accepted that, on the basis of the 7 September 2009 letter, Mr McRae knew that Ms Gobbo's role as a human source had not been disclosed or revealed during any legal proceedings, on the evidence, it is open to the Commissioner to find that from that date, Mr McRae failed to ensure that measures had been or were to be taken to ensure that Ms Gobbo's role was disclosed to people whose cases may have been affected by it.

3800. If Mr McRae's evidence that he did not read Ms Gobbo's 7 September 2009 letter 'word for word' and if he read the phrase 'previous unprecedented assistance (2005-2009)' he did not understand its

⁴⁹⁶⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.24], VPL.0014.0089.0003 @.0016.

⁴⁹⁶⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.25], VPL.0014.0089.0003 @.0016.

⁴⁹⁶⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.25], VPL.0014.0089.0003 @.0016.

⁴⁹⁶⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.25], VPL.0014.0089.0003 @.0016.

significance is accepted, on the evidence, it is open to the Commissioner to find that Mr McRae should have done so. That is so for the reasons set out in paragraphs 3798.1 to 3798.4.

September 2009 – Dealing with the Gobbo Letter

3801. On 8 September 2009, Mr Cornelius attended a meeting at Mr Overland's office in relation to Ms Gobbo.⁴⁹⁶⁸
3802. There is no record as to what occurred at this meeting, however, there does exist a copy of the version of Ms Gobbo's letter containing Mr Cornelius' handwritten notation of receipt, which also includes handwriting of Mr Wilson. The handwriting and comments by Mr Wilson include:
- at the top of the letter the notation 'This letter is not privileged (LPP), Would it be PII? Would our reply be PII?'
 - notations on paragraph 11
 - notations including 'This is just strange – what should we say' beside paragraphs 33 and 34
 - notations including 'What are we going to do about this', beside paragraph 45.⁴⁹⁶⁹
3803. This version of Ms Gobbo's letter with Mr Cornelius and Mr Wilson's handwriting, was provided to Ms Parsons at the VGSO. Mr Cornelius attended a meeting with Ms Parsons the following day.⁴⁹⁷⁰
3804. On 9 September 2009, a meeting took place between Messrs Cornelius, McRae, Steven Smith, Ryan and Ms Parsons to discuss Ms Gobbo's letter.⁴⁹⁷¹ The VGSO file note of the meeting included, amongst other matters that the VSGO would prepare a response to Ms Gobbo which would be again signed by Mr Walshe and delivered by Mr Wilson, and that the letter would not engage with all the allegations.⁴⁹⁷²
3805. Mr McRae typed a file note of the meeting, which included:⁴⁹⁷³

Note that the witness continues to appear not to be concerned about her own personal safety but rather the evidence protection provided by the Witness Protection legislation.

⁴⁹⁶⁸ Exhibit RC1036 Assistant Commissioner Luke Cornelius' note of meeting, 9 September 2009, VPL.0005.0012.3277.

⁴⁹⁶⁹ Exhibit RC1034 Version of Ms Gobbo's letter with Assistant Commissioner Luke Cornelius and Mr Rodney Wilson's handwriting, 7 September 2009, VGSO.2000.1358.0157.

⁴⁹⁷⁰ Exhibit RC1075 File note of meeting with VGSO re witness F, 9 September 2009, VGSO.2000.1369.0065.

⁴⁹⁷¹ Exhibit RC1036 File note of Assistant Commissioner Luke Cornelius, 9 September 2009, VPL.0005.0012.3277; Exhibit RC1076 Mr Findlay McRae's file note of 9 September 2009 meeting, marked Gobbo letter of 7 September 2009, VPL.0005.0003.3385; Exhibit RC1075 VGSO file note of meeting, 9 September 2009, VGSO.2000.1369.0065.

⁴⁹⁷² Exhibit RC1075 VGSO file note of meeting, 9 September 2009, VGSO.2000.1369.0065.

⁴⁹⁷³ Exhibit RC1076 Mr Findlay McRae file note of 9 September 2009 meeting, marked Gobbo letter of 7 September 2009, VPL.0005.0003.3385.

3806. It is apparent from this file note that Mr McRae must have read paragraphs 33 and 34 of Ms Gobbo's letter.
3807. On 14 September 2009, a further meeting took place in Mr Cornelius office involving he, and Messrs, McRae, Steven Smith and Alway.⁴⁹⁷⁴ That day, the response to Ms Gobbo's letter, which was signed again by Mr Walshe, was delivered to Ms Gobbo.⁴⁹⁷⁵

September 2009 – The 2009 Maguire Advice

3808. On 7 September 2009, a meeting occurred of the Petra Taskforce Management Committee. The written update noted that an issue concerning Mr Maguire had arisen in relation to Ms Gobbo. The Briars Taskforce Management Committee met immediately following and was attended by Messrs Cornelius, Moloney, Ashton, Wilson and Waddell. It was reported that definitive advice was expected from Maguire that week in relation to the protection of Ms Gobbo's history from disclosure. Mr Waddell had spoken with Mr Maguire earlier that morning.⁴⁹⁷⁶
3809. On 16 September 2009, Mr Waddell emailed Mr Cornelius proposing that someone conduct a review of the Briars investigation. He nominated Officer Terrasse for a number of reasons including that she had been 'partially exposed' and as such they would not be opening up any further potential for compromise. Mr Cornelius responded copying in Mr Moloney agreeing with the recommendation. He said the matter should be raised at the next Briars Taskforce Management Committee meeting, indicating he would be away, and Mr Moloney would be in the chair.⁴⁹⁷⁷
3810. It is noted that Mr Hollowood had suggested precisely this to Mr Moloney in December 2008 in relation to the Petra investigation, however he suggested a reviewer who would have had no knowledge of Ms Gobbo's role. This suggestion was obviously not taken up.
3811. On 17 September 2009, Mr Waddell emailed Mr Cornelius, copying in Mr Steven Smith indicating that he had just finished meeting with Mr Maguire in relation to Ms Gobbo and 'her future with Briars' and he would like to meet with he and Mr Smith, of the Petra Taskforce, before Mr Cornelius went on leave. Mr Waddell said the alternative was to discuss the matter at the Briars Taskforce Management Committee meeting on Monday, but in any case, Mr Steven Smith needed to be involved.
3812. Mr Cornelius responded that he would ring Mr Waddell, and that it should be okay to discuss the matter the following Monday at the Briars Taskforce Management Committee meeting which Mr Moloney would chair in his

⁴⁹⁷⁴ Exhibit RC1774 Assistant Commissioner Luke Cornelius electronic calendar entry, 14 September 2009, VPL.0005.0012.3263.

⁴⁹⁷⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 14 [3.26], VPL.0014.0089.0003 @.0016.

⁴⁹⁷⁶ Exhibit RC1056 Briars Taskforce Update Assistant Commissioner Luke Cornelius' handwritten notes, 7 September 2009, VPL.0100.0046.2426; Exhibit RC1204 Mr Stephen Waddell diary, 7 September 2009, 52, RCMP.0146.0001.0001 @.0052.

⁴⁹⁷⁷ Exhibit RC1669 Email chain involving Stephen Waddell, Luke Cornelius and Dannye Moloney, 16 September 2009, VPL.0005.0012.1138.

absence. Mr Cornelius said that Mr Steven Smith should be asked to hang back following the Petra Taskforce Management Committee meeting.⁴⁹⁷⁸

3813. On 21 September 2009, Mr Waddell emailed Mr Steven Smith asking him to remain behind after the Petra Taskforce Management Committee meeting that afternoon to attend the Briars Taskforce Management Committee meeting which would follow. Mr Steven Smith responded that he would.⁴⁹⁷⁹ He also spoke with him during the morning, no doubt indicating to him the effect of Mr Maguire's advice.⁴⁹⁸⁰

3814. The Briars Taskforce Management Committee meeting was attended by Messrs Moloney, Ashton, Waddell and Steven Smith. The written update stated in respect of Mr Maguire's advice as to disclosure of Ms Gobbo's history in the Petra and Briars proceedings:

Current advice from McGuire is that witness past will probably be declared to the court at a minimum in prosecution of Dale.

*If Perry is charged with murder it is probable that extent of witness assistance will be known.*⁴⁹⁸¹

3815. It is to be recalled that Mr Maguire was advising on the situation with respect to disclosure if Victoria Police decided not to rely upon Ms Gobbo's statement to the Briars Taskforce.

3816. Mr Maguire was aware by this time of Ms Gobbo's association with both Petra and Briars. As part of his work with the Briars Taskforce, Mr Maguire had a number of discussions and conferences with Mr Waddell. He also had discussions with other police members including Messrs Biggin and Cornelius. In the course of providing advice Mr Maguire had been informed that Ms Gobbo was registered as a human source for a period of time, however he was not provided any details of her registration, deregistration or the period of time of her registration.⁴⁹⁸²

3817. Mr Waddell recorded in his diary a decision arising out of the meeting:

Decision on 3838 24/9/9 – Moloney to reply. Statement will be available for use in time. Moloney to advise on reviewer.

3818. On 22 September 2009, Mr Steven Smith spoke with Mr O'Connell about the issues raised at the Briars Taskforce Management Committee meeting the previous day.

3819. Mr Cornelius no doubt had been advised of this situation prior to his going on leave. Mr Cornelius agreed that it would have been something that Mr Waddell would have been keen to convey to him but said he did not recall the specifics. He said he did not know if he had time to call Mr Waddell

⁴⁹⁷⁸ Exhibit RC1038 Email chain involving Stephen Waddell, Luke Cornelius and Steven Smith, 17 September 2009, VPL.0013.0001.0049.

⁴⁹⁷⁹ Exhibit RC1197 Email chain involving Stephen Waddell and Steven Smith, 21 September 2009, VPL.6058.0039.3095.

⁴⁹⁸⁰ Exhibit RC1204 Mr Stephen Waddell diary, 7 September 2009, 54, RCMPI.0146.0001.0001 @.0054.

⁴⁹⁸¹ Exhibit RC1039 Briars Taskforce Update, 21 September 2009, VPL.0100.0050.0054.

⁴⁹⁸² Exhibit RC0962 Statement of Mr Gerard Maguire, 8 August 2019, 10 [48] – [50], COM.0063.0001.0001 @.0010.

back.⁴⁹⁸³ Mr Moloney said he could not remember what happened in relation to disclosure following this time, that he was concerned to learn that there was no disclosure of material prior to the committal but that he did not attend all of the Management Committee meetings.⁴⁹⁸⁴

3820. The effect of Mr Maguire's advice was that disclosure was required of Ms Gobbo's Briars statement at a minimum in the upcoming prosecution of Mr Dale. It is submitted that it would have been apparent to investigators and Messrs Cornelius, Moloney and Ashton that disclosure of this statement would likely lead to further requests for material, and exposure of Ms Gobbo's role as a human source. No attempt was made by anyone to understand what the 'extent of witness assistance' encompassed in order to understand what disclosure might occur.
3821. Mr Moloney had been the head of I&CS and was well aware of the extent Ms Gobbo's assistance to the Purana Taskforce, having been briefed at the earliest stages. In that role, and in his later role as the Assistant Commissioner of Crime in which he had positions on the Petra and Briars Taskforce Management Committees, he also came to know of her role with those investigations as well.
3822. Mr Cornelius had knowledge of Ms Gobbo's association with an investigation of interest to Mr Overland in 2006, significant enough that they would request Mr Ashton to effectively cease the OPI's involvement in Operation Khadi so that Ms Gobbo would not be compromised as a human source. He had also received Ms Gobbo's 7 September 2009 letter which made clear that Ms Gobbo's assistance was very significant, that it dated back to 2005, and it related to organised crime figures who had been successfully prosecuted. He had also noted her more recent association with Mr Gatto. It is submitted that he must have been aware that Ms Gobbo's assistance to Victoria Police related not only to the Petra and Briars Taskforces, but also the Purana Taskforce.
3823. This is confirmed in later communications during Ms Gobbo's civil litigation in 2010. When Superintendent Peter Lardner of the Legal Services Division was looking for someone who would be across Ms Gobbo's involvement in the Purana, Petra and Briars Taskforces, Mr Cornelius told Mr Lardner that he (Mr Cornelius) was 'deliberately not included in the knowledge of all areas' but that Mr Moloney would be.⁴⁹⁸⁵ Mr Cornelius knew of Ms Gobbo's involvement with Purana, but a deliberate decision had been taken to limit the extent of Mr Cornelius's knowledge as to Ms Gobbo's assistance in that regard. This would have been justified at the time as his not having a 'need to know'. Perhaps this might be so if one was considering the matter only from an operational perspective. That cannot be said of Mr Cornelius, who was the Assistant Commissioner of the department of Victoria Police in charge of maintaining ethical standards within Victoria Police. He had accepted at the very outset of his evidence that as the head of the ESD, it would have been his duty to question such involvement, it having been brought to his attention. This period in 2009 provided numerous further

⁴⁹⁸³ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12509-12510, 2020.01.29.01.

⁴⁹⁸⁴ Transcript of Mr Dannye Moloney, 20 February 2020, 14626-14628, 2020.02.20.01.

⁴⁹⁸⁵ Exhibit RC1666 Email chain involving Peter Lardner, Dannye Moloney, Luke Cornelius, Findlay McRae and Anthony (Tony) Biggin, 21-22 May 2010, VPL.6051.0021.0593.

occasions on which Ms Gobbo's questionable relationship with Victoria Police had been brought to his attention and which he failed to pursue.

3824. Mr Ashton had known of Ms Gobbo's assistance to Victoria Police since mid-2006 when he agreed that she would not be called to the OPI in the Operation Khadi investigation, and thus knew her assistance was not limited to the Petra and Briars Taskforces. He had reason to question the extent of her assistance, although he failed to do so. Two years later Mr Ashton, by then the Assistant Commissioner of Crime at Victoria Police, was receiving advice from Mr Maguire again, that aspects of Ms Gobbo's history needed to be disclosed in a second prosecution of Mr Dale for breaches of the *Australian Crime Commission Act 2002*. Rather than make the disclosure at that time, Mr Ashton convinced the Commonwealth Director of Public Prosecutions to withdraw the charges.

23 September 2009 – Legal Representation for Petra Disclosure

3825. On 23 September 2009, Mr Waddell spoke with Mr Steven Smith about providing a copy of the subpoena received by Victoria Police from Rodney Collins who had been charged alongside Mr Dale, and about Mr Maguire representing the police. Presumably, this related to a plan to oppose production of the Gobbo statement to the Briars Taskforce on PII grounds. Mr Waddell spoke with Mr Maguire about the matter, indicating that he had not yet obtained authority to further engage him. Mr Waddell then spoke with Mr Moloney who indicated he would speak with Mr McRae about representation and advise him the following day.⁴⁹⁸⁶
3826. On 28 September 2009, a meeting took place involving Messrs McRae, Waddell, Steven Smith and Davey in relation to the Collins subpoena issues, in which it was determined that Mr Ron Gipp of counsel would be briefed presumably for both the Petra and Briars Taskforces.⁴⁹⁸⁷

Subpoena Handling Given to Solomon and Davey

3827. As Mr Steven Smith said in his evidence, 'a lot of the day to day hands on processes in relation to the subpoenas were handled by the co-informants, Solomon and Davey'.⁴⁹⁸⁸
3828. Mr Smith recorded in his diary having had a conversation with Messrs Solomon and Davey on 27 August 2009 in relation to the issue of Ms Gobbo and Mr Maguire and how this related to her role with the Briars Taskforce.⁴⁹⁸⁹ It is not known what was said by Mr Steven Smith to Messrs Solomon and Davey in relation to this, however it is clear that he did not inform them of Ms Gobbo's role as a human source, leaving them unable to provide adequate instructions to Mr Gipp.⁴⁹⁹⁰ A year earlier, Mr Gipp had been briefed and instructed by Purana Taskforce members in relation to PII claims made in

⁴⁹⁸⁶ Exhibit RC1204 Mr Stephen Waddell diary, 23 September 2009, 35, VPL.0005.0160.0021 @.0055.

⁴⁹⁸⁷ Exhibit RC1192 Detective Inspector Steven Smith diary, 28 September 2009, 217, RCMP1.0126.0001.0007 @.0217; Exhibit RC1204 Mr Stephen Waddell diary, 28 September 2009, 37, VPL.0005.0160.0021 @.0057.

⁴⁹⁸⁸ Transcript of Detective Inspector Steven Smith, 13 February 2020, 13973-13974, TRN.2020.02.13.01.

⁴⁹⁸⁹ Exhibit RC1192 Detective Inspector Steven Smith diary, 27 August 2009, 206 RCMP1.0126.0001.0007 @.0206.

⁴⁹⁹⁰ Transcript of Detective Inspector Steven Smith, 13 February 2020, 13973-13974, TRN.2020.02.13.01.

the trial of Mr Horty Mokbel. In that case, those directly instructing Mr Gipp had deliberately not provided him with information about Ms Gobbo's role so that such matters would not be dealt with in confidential affidavits and adjudicated by the court.

3829. Further, there appears to be no indication that Mr Gipp was told about the existence of Ms Gobbo's Briars statement, let alone the advice of Mr Maguire in relation to it.

28 September 2009 – Gobbo's Second Letter to Overland

3830. On 28 September 2009, Ms Gobbo wrote to Mr Overland for a second time.⁴⁹⁹¹ On the first page, Ms Gobbo expressed her disappointment in the letter of 14 September 2009:

For the record I note your apology. However, the tone and content of your letter was deeply upsetting and offensive, and particularly disappointing in the context of my very lengthy period of (and continuing) unprecedented assistance given voluntarily and without reward, to your organisation.

3831. In the final paragraph Ms Gobbo indicated that in the absence of contact by either Mr Overland or Mr Wilson directly by 5 October 2009, she would instruct lawyers to file and serve legal proceedings.
3832. Mr McRae received a copy of this letter on 30 September 2009, according to his handwritten notation on the copy on his file.⁴⁹⁹²

5 October 2009 – Gobbo Briars Statement Used for Affidavits

3833. On 5 October 2009, the Briars Taskforce Committee was told that Ms Gobbo's draft statement was being used in affidavits for search warrants and telephone intercepts, and that her statement was to be signed at some stage.⁴⁹⁹³

October - November 2009 – [REDACTED]

3834. In further communications, Ms Gobbo gave Victoria Police an extension of time and negotiations continued. Mr McRae and Mr Cornelius continued to be involved and updated about developments.⁴⁹⁹⁴
3835. On 9 October 2009, Messrs Wilson and Steven Smith met with Ms Gobbo and her legal representative. Mr Wilson noted in his diary that there was agreement to commence a negotiation in relation to Ms Gobbo's [REDACTED] [REDACTED] and reference to a draft document being provided.

⁴⁹⁹¹ Exhibit RC0948 Letter from Ms Nicola Gobbo to Mr Simon Overland, 28 September 2009, VPL.0002.0001.1397.

⁴⁹⁹² Exhibit RC0948 Letter from Ms Nicola Gobbo to Mr Simon Overland, 28 September 2009, VPL.0002.0001.1397.

⁴⁹⁹³ Exhibit RC1040 Briars Taskforce file maintained by Cornelius, Briars Taskforce Update, 5 October 2009, 324, VPL.0100.0058.0798 @.1121.

⁴⁹⁹⁴ Exhibit RC0828 Mr Rodney Wilson diary, 8-9 October 2009, VPL.0005.0213.0073 @.0123 - .0124; 12 October 2009, VPL.0005.0213.0073 @.0125; 19 October 2009, VPL.0005.0213.0073 @.0127; Exhibit RC1817 File note of Mr Findlay McRae, 9 October 2009, VPL.0005.0191.0022.

3836. That day, the VGSO sent Mr McRae a scanned version of a previous draft memorandum of agreement (MOA) containing Ms Gobbo's handwritten notations.⁴⁹⁹⁵
3837. In late October 2009, Ms Gobbo provided a further draft MOA to Victoria Police which contained references to her assistance in matters other than the Petra Taskforce.⁴⁹⁹⁶ Mr McRae was briefed about the document, and then subsequently spoke with Mr Cornelius.⁴⁹⁹⁷
3838. The contents of the draft agreement included information which made clear that Ms Gobbo was assisting other parts of Victoria Police, such as at clause 4.1, which indicated that:
- Ms Gobbo had agreed to give evidence in proceedings related to Mr Dale and Mr Rodney Collins (the Petra Taskforce investigation) and suspects in the murder of Mr Chartres-Abbott (the Briars Taskforce investigation)
 - Ms Gobbo might provide assistance in relation to other investigations being conducted by the Purana and Petra Taskforces.
3839. Further to this, clause 6.1 proposed that the agreement would continue to the latter of proceedings relating to Messrs Dale and Collins, or the murder of Mr Chartres-Abbott.⁴⁹⁹⁸
3840. On 16 November 2009, a meeting took place involving Ms Parsons and Messrs McRae, Cornelius and Steven Smith where Ms Gobbo's draft MOA was discussed. Mr McRae's handwritten notes of the meeting include reference to clause 6.1, and her assistance in respect of both the Dale and Chartres-Abbott matters.⁴⁹⁹⁹
3841. The file note of the VGSO from the meeting includes the following paragraphs:⁵⁰⁰⁰

2.5 Details added in relation to coronial inquest and other assistance appear to be creating uncertainty in relation to the ending of the term and also the obligation to pay the lump sum.

...

4. There was specific discussion of the expanded events in 6.1 of the Agreement. Luke Cornelius rang to check what assistance the witness is giving in other matters. He instructed that this agreement needs to be amended to refer only to the evidence the witness is capable of giving in relation to the major matter. Witness has agreed to give evidence in the form of a draft statement. The witness may have offered to give a further statement in the major matter and the agreement should cover this, rather than be drafted to preclude this. It

⁴⁹⁹⁵ Exhibit RC1705 Email from VGSO to Findlay McRae, and attachment, 9 October 2009, VPL.6023.0165.4925, VPL.6023.0165.4926.

⁴⁹⁹⁶ Exhibit RC1041 Email chain involving Nicola Gobbo, Rodney Wilson, Steven Smith and Findlay McRae, 27 October 2009, VPL.0005.0003.3218.

⁴⁹⁹⁷ Exhibit RC1668 Email train involving Rodney Wilson and VGSO, VPL.6115.0030.8022.

⁴⁹⁹⁸ Exhibit RC0990 Memorandum of Agreement between Ms Nicola Gobbo and Chief Commissioner of Police, unsigned, undated, MIN.0002.0001.1391.

⁴⁹⁹⁹ Exhibit RC1080 Mr Findlay McRae's file note of meeting, 16 November 2009, VPL.0005.0191.0006.

⁵⁰⁰⁰ Exhibit RC1043 VGSO file note of meeting, 16 November 2009, VPL.0005.0003.6608.

is not certain whether there will be a coronial inquest in relation to the major matter, so reference to this should be deleted. Need to cover any retrial or proceeding related to the witness/evidence.

3842. Whilst Mr Cornelius said he could not recall who he rang during the meeting, he stated that clearly he was given advice that allowed him to go back to the lawyers at the meeting (Mr Ryan, Ms Parsons and Mr McRae) and say 'well, that material ought not be covered by this agreement'.⁵⁰⁰¹
3843. Mr Cornelius said that the reference to Ms Gobbo providing assistance to Purana in the MOA did not trigger further enquiries because it was not relevant to the reason why he was seeking to have Ms Gobbo enter the WPP.⁵⁰⁰² It was however something that would again have put him on notice as to the extent Ms Gobbo's involvement and assistance with Victoria Police.
3844. Mr McRae acknowledged in his evidence that he went through the clauses in the MOA at the meeting, including clause 6.1.⁵⁰⁰³ It was suggested to him that he was receiving information that Ms Gobbo's relationship with Victoria Police was not simply as a witness against Mr Dale. He said he was told that Ms Gobbo was 'prone to having discussions with police' and that she liked to 'socialise with police and she liked to talk to police informally about cases'.⁵⁰⁰⁴
3845. Mr McRae was asked if he made any enquiries about the other assistance Ms Gobbo was providing to Victoria Police. He responded that Mr Cornelius had 'nipped it in the bud', confining the MOA back to the investigations of his interest, where she was a witness.⁵⁰⁰⁵ Mr McRae spoke to Mr Ryan and said he could not understand what was going on.⁵⁰⁰⁶ He said he was focused on protecting her life.⁵⁰⁰⁷
3846. Mr McRae said he did not recall enquiring of Ms Gobbo's activity with Purana at this time, nor did he enquire about her assistance to the Petra and Briars Taskforces as Mr Cornelius was in charge of those matters.⁵⁰⁰⁸
3847. At this stage, Mr McRae described the situation of accumulating this information as a 'jigsaw puzzle' and that he was just 'getting a taste of it'.⁵⁰⁰⁹ Mr McRae said that everyone 'has a part of the puzzle':

The VGSO are dealing with bits and pieces of public interest immunity applications. The investigators are dealing with their parts in the investigation and it seems that no one is across everything, even Luke, who to me just is incredible, has an incredible capacity to keep across things, takes copious notes and is very particular'.⁵⁰¹⁰

⁵⁰⁰¹ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12524, TRN.2020.01.29.01.

⁵⁰⁰² Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12521, TRN.2020.01.29.01.

⁵⁰⁰³ Transcript of Mr Findlay McRae, 30 January 2020, 12688, TRN.2020.01.30.01.

⁵⁰⁰⁴ Transcript of Mr Findlay McRae, 30 January 2020, 12692, TRN.2020.01.30.01.

⁵⁰⁰⁵ Transcript of Mr Findlay McRae, 30 January 2020, 12691, TRN.2020.01.30.01.

⁵⁰⁰⁶ Transcript of Mr Findlay McRae, 30 January 2020, 12691, TRN.2020.01.30.01.

⁵⁰⁰⁷ Transcript of Mr Findlay McRae, 30 January 2020, 12692, TRN.2020.01.30.01.

⁵⁰⁰⁸ Transcript of Mr Findlay McRae, 30 January 2020, 12703, TRN.2020.01.30.01.

⁵⁰⁰⁹ Transcript of Mr Findlay McRae, 30 January 2020, 12693, TRN.2020.01.30.01.

⁵⁰¹⁰ Transcript of Mr Findlay McRae, 30 January 2020, 12693, TRN.2020.01.30.01.

November 2009 – Monitoring Gobbo Issues in Other Proceedings

3848. In November 2009, shortly prior to the commencement of Ms Zaharoula Mokbel's trial, Victoria Police were closely monitoring whether any issue related to Ms Gobbo would arise in Ms Mokbel's trial.

3849. On 9 November 2009, Detective Senior Sergeant Jim Coghlan, who had overseen the investigation in relation to Ms Mokbel, emailed a report of a court hearing to Mr Steven Smith, the OIC of the Petra Taskforce and Mr Bernie Edwards, the OIC of the Purana Taskforce:⁵⁰¹¹

The matter of Roula MOKBEL:

Steven SHIREFFS appeared for Roula this morning in the County Court.

Basically the following occurred:

- Horty MOKBEL may be used as a witness for the defence in his wife's trial. He is currently on trial himself.*
- The statement made by [REDACTED] was prepared by his Barrister. The fact that [REDACTED] has previously stated that his Barrister had been involved in the preparation of the statement may now require that his Barrister be subpoenaed to give evidence in Roula's trial.*
- There was no discussion of the possibility of Roula's trial being adjourned so it would appear that next Monday 16/11/09 is still a goer.*
- There was no mention of the name of 3838*

Jim

3850. Mr Ketch and Ms Zaharoula Mokbel had been arrested in October 2006. Ms Gobbo represented Mr Ketch from that time (she had previously represented him on other matters) until at least the beginning of 2008. [REDACTED] [REDACTED] a central witness against Ms Zaharoula Mokbel.

3851. Ms Gobbo also represented Ms Mokbel between April and September 2007.⁵⁰¹²

3852. Mr Coghlan had learned of Ms Gobbo's status as a human source in around mid-2006, and as time went on appreciated that financial information he was being provided by Mr O'Brien, then OIC of Purana, was coming from Ms Gobbo. His first recorded diary entry of '3838' was on 9 June 2006.⁵⁰¹³

3853. Mr Coghlan dealt with Ms Gobbo as Mr Ketch's legal representative in 2007, and also became aware of her representation of Ms Mokbel.⁵⁰¹⁴ He stated that he considered that there was a potential for Ms Gobbo to have a conflict of interest in acting for Zaharoula Mokbel. It is apparent he did not do anything about that situation.⁵⁰¹⁵

[REDACTED]

⁵⁰¹² See Case Studies of Mr Ketch and Zaharoula Mokbel at Volume 3.

⁵⁰¹³ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan, 12 November 2019, 14 - 15 [90] – [92], VPL.0014.0086.0001 @.0014 - .0015.

⁵⁰¹⁴ Exhibit RC1232 Statement of Detective Sergeant James (Jim) Coghlan, 12 November 2019, 10 [65], 12 [75], 13 [80]-[82], 14[90], VPL.0014.0086.0001 @.0010, .0012 - .0014.

⁵⁰¹⁵ Statement of Detective Sergeant James (Jim) Coghlan, 8 April 2020, 2-3 [10], VPL.0014.0086.0022 @.0002 - .0003.

3854. On 4 December 2007, Ms Gobbo had told her handler that she was provided with a copy of [REDACTED] draft statement, reviewed the statement and provided advice to him about the making of the statement.⁵⁰¹⁶
3855. The following day, she told her handler that she was ringing [REDACTED] to advise as to matters in the statement which required amendment.⁵⁰¹⁷

December 2009 – *Moti* Issues

3856. On 16 December 2009, Mr Ryan drew Mr McRae's attention to the decision in *R v Moti* [2009] QSC 207 (*Moti*). In that case, the court granted a permanent stay of charges against Mr Moti, on the basis that payments by the Australian Federal Police to the alleged victim's family, who would have been witnesses at trial, had brought the administration of justice into disrepute.⁵⁰¹⁸
3857. Mr McRae was alerted to potential similarities between this case and the proposed payments to Ms Gobbo in the MOA. He was concerned to make sure that Messrs Overland and Ashton were made aware of the decision and its ramifications, which also extended to arrangements made in respect of Mr Carl Williams.⁵⁰¹⁹
3858. On 21 December 2009, aware that Ms Gobbo was threatening to commence legal proceedings, Mr Ryan sent a letter to Ms Gobbo's lawyers inviting them to attend a meeting with Ms Parsons and Messrs McRae and Cornelius in an attempt to reach agreement on the outstanding issues. A meeting was arranged for 4 January 2010.⁵⁰²⁰
3859. On 23 December 2009, Mr McRae telephoned Mr Rapke, and outlined his concerns in relation to the quantum of the proposed payment to Ms Gobbo, noting the decision in *Moti* and the potential that Ms Gobbo would shortly issue proceedings.⁵⁰²¹
3860. Following the discussion Mr McRae provided Mr Rapke with a number of documents including the draft MOA which had been provided by Ms Gobbo in late October 2009, a draft MOU prepared by the VGSO and a copy of the decision in *Moti*.⁵⁰²² Mr McRae told the Commission that he did not recall discussing Ms Gobbo's further assistance with Mr Rapke.⁵⁰²³

⁵⁰¹⁶ Exhibit RC0281 ICR3838 (114), 4 December 2007, 1499, VPL.2000.0003.3085.

⁵⁰¹⁷ Exhibit RC0281 ICR3838 (114), 5 December 2007, 1505, VPL.2000.0003.3091.

⁵⁰¹⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 15 [3.30], VPL.0014.0089.0003 @.0017.

⁵⁰¹⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 15 [3.31], VPL.0014.0089.0003 @.0017.

⁵⁰²⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 15 [3.32]-[3.33], VPL.0014.0089.0003 @.0017.

⁵⁰²¹ Exhibit RC1081 File note of discussion with Jeremy Rapke, 23 December 2009, VPL.0005.0003.6708.

⁵⁰²² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 15 – 16 [3.34]-[3.36], VPL.0014.0089.0003 @.0017 - .0018.; Exhibit RC0990 Memorandum of Agreement between Ms Nicola Gobbo and Chief Commissioner of Police, unsigned, undated, MIN.0002.0001.1391; Exhibit RC1082 Letter to Mr Jeremy Rapke from Mr Findlay McRae, 23 December 2009, VPL.0005.0003.6634.

⁵⁰²³ Transcript of Mr Findlay McRae, 30 January 2020, 12702, TRN.2020.01.30.01.

3861. On 24 December 2009, Mr McRae received further advice, including from Mr Peter Hanks, as to the proposed payments in light of the decision in *Moti* and then spoke further with Mr Rapke.⁵⁰²⁴
3862. On 4 January 2010, Mr McRae and Ms Parsons attended the meeting with Ms Gobbo's lawyers.⁵⁰²⁵ Mr McRae indicated that Victoria Police could not progress discussions regarding financial compensation for Ms Gobbo's [REDACTED] whilst she was a witness. He said that Victoria Police would continue to provide a retainer (she was being paid \$1000 a month living expenses) and would continue to provide security arrangements to protect her safety. Ms Gobbo's lawyers were not happy with this position. Mr McRae invited them to speak with Mr Rapke about the matter, which they did.⁵⁰²⁶

20 January 2010 – VicPol Meeting with DPP

3863. On 20 January 2010, Messrs Cornelius and McRae met with Mr Rapke. They discussed a letter received from Ms Gobbo's lawyers a few days earlier and concern that Ms Gobbo was seeking payments which would raise '*Moti*' issues. There was discussion of the defence wanting full disclosure in relation to any 'inducements' paid to Ms Gobbo and Mr Williams.
3864. Mr Rapke advised that Victoria Police should have no further discussion in relation to payments to the witness, other than those covering her subsistence, and that she should be told to enter the WPP on Victoria Police's terms or not.
3865. The meeting also discussed financial arrangements that had been made with Mr Carl Williams and his father, which would need to be unwound.⁵⁰²⁷
3866. Mr Cornelius was asked if the DPP had been provided with the correspondence Ms Gobbo had been sending to Mr Overland, and information contained in the memorandum sent to himself on 12 August 2009 which had contained demands made by Ms Gobbo. He responded that he did not recall providing that material to the DPP.⁵⁰²⁸ There is no evidence that he informed the DPP of the substance of those demands.

21 January 2010 – Gobbo's Third Letter to Overland

3867. On 21 January 2010, Ms Gobbo wrote to Mr Overland for a third time.⁵⁰²⁹ She attached previous correspondence, recited assurances which she said

⁵⁰²⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 16 [3.37], VPL.0014.0089.0003 @.0018.

⁵⁰²⁵ Exhibit RC1841 File note of meeting between Ms Isabel Parsons, Mr Findlay McRae and Mr Mark Waters, 4 January 2010, VGSO.2000.1370.0208.

⁵⁰²⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 17 [3.41]-[3.42], VPL.0014.0089.0003 @.0019.

⁵⁰²⁷ Exhibit RC1777 Electronic calendar entry with handwritten notes by Assistant Commissioner Luke Cornelius, 20 January 2010, VPL.0005.0012.3029.

⁵⁰²⁸ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12528, TRN.2020.01.29.01.

⁵⁰²⁹ Exhibit RC0949 Letter from Ms Nicola Gobbo to Mr Simon Overland, 21 January 2010, VPL.0002.0001.1595.

had been given to her in advance of her agreeing to become a witness against Mr Dale, and outlined the position she found herself in.

3868. At paragraphs 7 and 8 she stated:

As a former Deputy Commissioner for Crime, I am sure that I need not remind you of the difficulties that Victoria Police will encounter if some or any of my past assistance is disclosed in the course of the prosecution of Dale. As matters currently stand, such disclosure would appear to be inevitable. Leaving aside the impact such disclosure will have on me personally (including but not limited to my future safety), the difficulties Victoria Police will encounter will extend well beyond the obvious embarrassment and damage that will be done to the Dale prosecution.

I have for many months now repeatedly stated that the best way to avoid jeopardising the Dale prosecution is to ensure that evidentiary protections afforded under the Witness Protection Act be granted to me. It alarms me greatly that with Dale's Committal scheduled to commence in less than 7 weeks time, and in circumstances where Dale is anticipated to serve subpoenas on Monday 25 January 2010, Victoria Police is still to determine the issue of my participation in the Witness Protection Program. I can only hope that this Issue is resolved before Dale files and serves his subpoenas, after which time it will simply be too late.

3869. In the final paragraphs she stated:

In one final attempt to avoid what I suspect will otherwise be an irreparable and intractable situation for all parties, I am imploring you to please read the enclosed correspondence, particularly in light of the incredible sacrifices I have made for Victoria Police in circumstances where I have asked for nothing other than for the organisation to honour the representations and assurances that have been made to me. Further, I beseech you to reconsider the stance that has been adopted by Victoria Police to date and do so appealing to your professionalism, decency, humanity and conscience.

Will you meet with me?

3870. Mr Overland did not meet with Ms Gobbo.

3871. Mr Overland told the Commission he could not recall whether he read Ms Gobbo's letter at the time, stating that Mr McRae was managing the issues. When his attention was drawn to paragraphs 7 and 8 above Mr Overland said reading it now it clearly related to Ms Gobbo's frustration about the difficulties of entering the WPP and he would have referred it on to Messrs Hart and/or McRae.⁵⁰³⁰ When asked if he would have at least been concerned about other matters being referred to by Ms Gobbo, or asked what issues there might be should disclosure occur, Mr Overland responded that he thought he knew what those issues were.⁵⁰³¹

3872. Again, it is submitted that Mr Overland would have understood from reading the first letter addressed to him from Ms Gobbo, that those disclosure issues

⁵⁰³⁰ Transcript of Mr Simon Overland, 19 December 2019, 11890 -11891, TRN.2019.12.19.01.

⁵⁰³¹ Transcript of Mr Simon Overland, 19 December 2019, 11891, TRN.2019.12.19.01.

related to her status as a human source, which to that point had never been revealed in any court.

22 January 2010 – Petra Convenes Special Meeting

3873. On 22 January 2010, a special meeting of the Petra Taskforce took place attended by Messrs Cornelius, Moloney, Steven Smith, McRae and Messrs Ashton and Paul Jevtovic of the OPI. The invitation stated ‘This is a critical meeting. No delegates please’.⁵⁰³²
3874. The meeting discussed the *Moti* decision and the implications arising in the Petra prosecution in light of the views of the DPP on the matter at the meeting a few days previous. It was determined that a short letter should be written back to Ms Gobbo’s lawyers, attaching a WPP agreement and denying claims made by her. The meeting also discussed financial arrangements that had been made with Mr Carl Williams and his father, which would need to be unwound.
3875. Mr Cornelius said he had no recollection of the content of Ms Gobbo’s letter and thought the letters were being managed through Mr McRae’s office. Mr Cornelius acknowledged that if the correspondence had come to the committee of management it would have been discussed. He said that he might not have seen the specific letter but imagined the meeting would have been briefed about its contents.⁵⁰³³
3876. Mr McRae did not just have concerns about the financial arrangements with Ms Gobbo, he also had concerns regarding Messrs Carl and George Williams in light of the *R v Moti* decision.⁵⁰³⁴ In light of the decision and the advice he had received from the DPP, Mr McRae took steps to unwind those arrangements.⁵⁰³⁵ For example, on 2 February 2010, Mr McRae sent a letter to Mr Rob Stary in relation to his client, Mr George Williams, stating that in light of the *R v Moti* decision, Victoria Police could no longer provide assistance because those arrangements were an abuse of process.⁵⁰³⁶
3877. He said that in the period from February to April 2010, the VGSO and Piper Alderman (Ms Gobbo’s solicitors) continued to exchange correspondence which was provided to Mr McRae who continued to stay apprised of the matter.⁵⁰³⁷ Mr McRae said that he did not have the same level of involvement that he had in the period from December to the end of January 2010.⁵⁰³⁸

⁵⁰³² Exhibit RC1764 Calendar invitation with Assistant Commissioner Luke Cornelius’ handwritten notes, Petra Taskforce Special Meeting, 22 January 2010, VPL.0005.0012.2981; Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 24 [138], VPL.0014.0057.0001 @.0024.

⁵⁰³³ Transcript of Mr Cornelius, 29 January 2020, 12527 - 12528, TRN:2020.01.29.01.

⁵⁰³⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.49], VPL.0014.0089.0003 @.0021.

⁵⁰³⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.49], VPL.0014.0089.0003 @.0021.

⁵⁰³⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.49], VPL.0014.0089.0003 @.0021; Exhibit RC1717 Letter from Mr Findlay McRae to Mr Rob Stary, 2 February 2010, VPL.0005.0191.0028.

⁵⁰³⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.50], VPL.0014.0089.0003 @.0021.

⁵⁰³⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.50], VPL.0014.0089.0003 @.0021.

27 January 2010 – Dale Subpoena

3878. On 27 January 2010, Mr Dale served a subpoena on the Chief Commissioner requiring production of documents concerning Ms Gobbo and any agreement with Victoria Police to provide inducements to her to give evidence (the Dale subpoena).⁵⁰³⁹
3879. The Dale subpoena provided a very broad definition of what the term 'document' encompassed.⁵⁰⁴⁰ The subpoena demanded production of any such documents which related to Ms Gobbo, including but not limited to:
- OPI hearing examinations
 - any assistance to be provided to Ms Gobbo by Victoria Police
 - all documents relating to any conversation, discussion, or interview conducted with Ms Gobbo regarding:
 - her agreement to wear a wire
 - her agreement to become a witness or make a statement; and
 - any inducement, threat or benefit in relation to her becoming a witness
 - all diary entries, day book entries, notes, information reports, and briefing reports made by any member of Victoria Police during the course of the investigation into the death of Terence Hodson; and
 - material relating to any discussion, interview, debriefing or conversation with:
 - any witness in this investigation; and
 - any person who might be called as a witness for the prosecution.⁵⁰⁴¹
3880. On 28 January 2010, Mr McRae received an email from Mr Ryan at the VGSO, which, amongst other matters:⁵⁰⁴²
- advised that counsel representing the Chief Commissioner in relation to the Dale subpoena, Mr Gipp, and the VGSO, were of the view that the scope of the subpoena required the production of documents which recorded payments to Ms Gobbo

⁵⁰³⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 18 [3.48], VPL.0014.0089.0003 @.0020; Exhibit RC1894 Victorian Government Solicitor's Office, Subpoena issued on behalf of Mr Paul Dale to Chief Commissioner of Victoria Police, 27 January 2010, VGSO.2000.1588.0181.

⁵⁰⁴⁰ Exhibit RC1894 Victorian Government Solicitor's Office, Subpoena issued on behalf of Mr Paul Dale to Chief Commissioner of Victoria Police, 27 January 2010, 2, VGSO.2000.1588.0181 @.0182.

⁵⁰⁴¹ Exhibit RC1894 Victorian Government Solicitor's Office, Subpoena issued on behalf of Mr Paul Dale to Chief Commissioner of Victoria Police, 27 January 2010, 3 - 6, VGSO.2000.1588.018 @.0183 - .0184.

⁵⁰⁴² Exhibit RC1704 Email from VGSO to Findlay McRae, 28 January 2009, VPL.0005.0003.6391.

- confirmed instructions had been provided to counsel to disclose to the defence in general terms the subsistence payments that had been made to Ms Gobbo
- advised that counsel and the VGSO were of the view that whilst not all documents in the possession of the Chief Commissioner relating to negotiations with Ms Gobbo fell strictly within the scope of the subpoena, they were likely to come to the attention of defence during the committal and that when Mr McRae met with the DPP the following week he should request the DPP to consider whether he considered the documents should be disclosed in any event in accordance with the prosecution's duty of disclosure
- advised that if the DPP was minded to disclose the documents, the Chief Commissioner should claim PII
- advised that the basis for PII had not fully been thought through, but perhaps could be made on the basis of the need to maintain the integrity of the administration of justice through the prosecution of crime and obtaining and ensuring witness co-operation
- advised that it would be necessary for an affidavit to be sworn in support of the PII claim.

1 February 2010 – Responsibility of Subpoena Material

3881. On 1 February 2010, a mention was held in the Dale murder prosecution, following which Mr Davey emailed Mr O'Connell, Mr Steven Smith and Mr Solomon. Mr Davey advised that the matter had been adjourned to 22 February 2009 for further mention, prior to which documents falling within the scope of the Dale subpoena needed to be provided so that Mr Gipp could assess them for issues of PII. Mr Davey attached a copy of the subpoena and a spreadsheet which was to be used to track collation of the documents.
3882. In that email, Mr Davey delegated the responsibility of responding to the subpoena to Mr O'Connell, Mr Steven Smith and Mr Solomon.⁵⁰⁴³ Mr O'Connell, Mr Steven Smith and Mr Solomon were each placed in charge of locating particular material and identifying information that should be excluded on the basis of PII.⁵⁰⁴⁴ Mr Steven Smith's responsibilities included 'Petra Steering Committee reports' and his investigation notes. Mr O'Connell's responsibilities included Ms Gobbo's OPI transcripts, and his notes if they had not already been provided in relation to the Collins subpoena.
3883. In his statement to the Commission, Mr O'Connell acknowledged that he was involved in the subpoena matters for Mr Dale, which may have required Victoria Police to disclose information about Ms Gobbo's involvement with Victoria Police.⁵⁰⁴⁵

⁵⁰⁴³ Exhibit RC1676 Email from Cameron Davey to Solon (Sol) Solomon, Steven (Steve) Smith and Shane O'Connell, 1 February 2010, VPL.6058.0036.5729.

⁵⁰⁴⁴ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 2 [14], COM.0041.0004.0001 @.0002; Victoria Police, Exhibit RC1676 Email from Cameron Davey to Solon (Sol) Solomon, Steven (Steve) Smith and Shane O'Connell, 1 February 2010, VPL.6058.0036.5729.

⁵⁰⁴⁵ Exhibit RC1305 Statement of Mr Shane O'Connell, 5 December 2019, 31 [200], VPL.0014.0115.0001 @.0031.

3884. Mr O'Connell noted he had significant engagement with the VGSO about these matters throughout February and March 2010. These matters, and matters relating to the disclosure of material pursuant to those subpoenas, are explored in further detail below.

8 February 2010 – Letter from VGSO to Dale Lawyers

3885. On 8 February 2010, the Petra Taskforce Management Committee were informed in the weekly written update that the Dale subpoena had been received. The Committee was also informed that the matter had been adjourned for further mention and argument on 22 February 2010 and that it had been resolved that material in relation to Ms Gobbo's proposed litigation would be declared to the defence but actual production would be refused and argued at the further mention if required. Other material in relation to payment of Ms Gobbo's ongoing expenses would be handed over.⁵⁰⁴⁶

3886. On the same day, Mr Ryan of the VGSO wrote to Mr Dale's legal representative, Mr Hargreaves, advising of the process in relation to the response to the Dale subpoena. This included that an 'audio recording (no transcript)' of a conversation between Ms Gobbo and Mr O'Connell on 7 January would be produced on or before 22 February 2010. Further, the letter indicated that there were further documents in the possession, custody and control of the Chief Commissioner of Police which did not fall within the ambit of the subpoena. Mr Ryan referred to correspondence from Mr Hargreaves which broadly requested 'documents relating to any conversations' between members of Victoria Police and Ms Gobbo and Carl Williams, and indicated accordingly:

- that there were documents prepared by police attending to the protection and welfare of Ms Gobbo, and that the notes only recorded conversation as to her security and welfare. A claim of PII would be made over those documents
- there was a questionnaire and handwritten responses of an informal conversation between Mr Davey and Ms Gobbo relating to the investigation of Mr Dale and the Hodson murders, some of which was subject to a claim of PII but would otherwise be produced.⁵⁰⁴⁷

8 February 2010 – Gobbo Becomes Involved in Dale Subpoena

3887. Also on 8 February 2010, Ms Gobbo's lawyers wrote to the VGSO. The letter:

- indicated knowledge that Mr Dale's solicitor had served a subpoena on Victoria Police which Ms Gobbo understood sought the production of a number of classes of documents which either directly related to or emanated from Ms Gobbo, and which went directly to the issue of 'other assistance our client may have provided to your client in investigations other than that of Mr Dale'

⁵⁰⁴⁶ Exhibit RC1765 Interpose Petra File, Petra Taskforce Weekly Update, 15 December 2008, 405-501, VPL.0100.0020.5275 @.5679 - .5680.

⁵⁰⁴⁷ Exhibit RC1733 Letter from VGSO to Mr Tony Hargreaves, 8 February 2010, VGSO.2000.0137.0104.

- stated that the evidentiary protections which might have been afforded by the Witness Protection Act had now been lost as Ms Gobbo had not been granted access to the WPP prior to the service of the subpoena, and also noted that Ms Gobbo had previously raised concerns about these matters
 - stated that as Ms Gobbo had raised many times, it was not an appropriate or acceptable safeguard to rely upon a claim of PII as a means of answering the subpoena, as the claim would have the effect of labelling Ms Gobbo as a police informer
 - demanded a copy of the Dale subpoena, and instructed that Victoria Police would be held liable for harm, loss and/or damage suffered as a result of the production of documents in answer to the subpoena where Ms Gobbo might have successfully challenged such protection if she had the opportunity to be heard.⁵⁰⁴⁸
3888. Mr McRae was notified of this matter by the VGSO almost immediately.⁵⁰⁴⁹ He continued, along with Mr Cornelius, to provide instructions to the VGSO in relation to matters associated with Ms Gobbo.⁵⁰⁵⁰
3889. On 10 February 2010, Mr O'Connell emailed Mr Ryan of the VGSO and indicated he had spoken with Mr Steven Smith about the 'subpoena issue', and that Mr Steven Smith wanted to speak with Messrs Cornelius and McRae about it further.⁵⁰⁵¹
3890. That night, Mr Ryan authored a letter responding to Ms Gobbo's lawyers providing a copy of the subpoena and the letter to Mr Dale's lawyers of 8 February 2010 and indicating that there had not yet been any documents produced relating to Ms Gobbo. The letter indicated that Victoria Police did not consider that any documents proposed to be produced without objection would compromise Ms Gobbo's safety.⁵⁰⁵²
3891. The following day, Mr O'Connell emailed Mr Ryan again indicating that he believed the issue may have resolved the previous day, indicating that Mr Steven Smith had previously discussed the same issue with Mr Cornelius and the Petra Taskforce Management Committee.⁵⁰⁵³ Mr Ryan responded confirming the issue had been resolved and that a letter had been sent to Ms Gobbo's lawyers the previous night enclosing the Dale subpoena and the Chief Commissioner's proposed response to the subpoena (the letter to Mr Hargreaves of 8 February 2010).⁵⁰⁵⁴
3892. On 12 February 2010, Ms Gobbo's lawyers wrote to the VGSO demanding copies of all documents and audio recordings relating to her that the Chief

⁵⁰⁴⁸ Exhibit 1728 Letter from Piper Alderman to VGSO, 8 February 2010, VGSO.5000.0023.0145.

⁵⁰⁴⁹ Exhibit RC1706 Email from VGSO to Findlay McRae, attaching letter from Piper Alderman, 8 February 2010, VGSO.2000.1365.0326, VGSO.2000.1365.0238.

⁵⁰⁵⁰ Email from VGSO to Findlay McRae and others with attached draft letter, 9 February 2010, VPL.0005.0003.1265 and VPL.0005.0003.1267; Exhibit RC1702 Email from VGSO to David Ryan, 10 February 2010, VGSO.2000.1371.0380.

⁵⁰⁵¹ Exhibit RC1661 Email chain involving David Ryan, Shane O'Connell and Steven Smith, 10-11 February 2010, VGSO.2000.1371.0366.

⁵⁰⁵² Exhibit RC1735 Letter from VGSO to Piper Alderman, 10 February 2010, VPL.0005.0003.1261.

⁵⁰⁵³ Exhibit RC1661 Email chain involving David Ryan, Shane O'Connell and Steven Smith, 10-11 February 2010, VGSO.2000.1371.0366.

⁵⁰⁵⁴ Exhibit RC1661 Email chain involving David Ryan, Shane O'Connell and Steven Smith, 10-11 February 2010, VGSO.2000.1371.0366.

Commissioner intended to produce, including the recording of 7 January 2009 with Mr O'Connell.⁵⁰⁵⁵

3893. That day Mr Ryan spoke with Mr McRae who indicated he would provide instructions along with Mr Steven Smith as to which documents they would not object to handing over.⁵⁰⁵⁶

10 to 16 February 2010 – Further Disclosure Consideration

3894. On 10 February 2010, Mr Ryan emailed Mr McRae. He asked whether Mr McRae could confirm, following discussions with the DPP, that Mr Gipp could disclose to the defence that draft agreements had been produced in respect of Ms Gobbo's protection and assistance, but that the Chief Commissioner of Police would be claiming PII over those documents.⁵⁰⁵⁷
3895. On 12 February 2010, Mr Elms of the VGSO emailed Mr Gipp and advised that Mr McRae had no firm view either way as to whether the existence of the 'negotiation documents' should be disclosed. Mr McRae had not raised it with the DPP, but had been content for Mr Ryan to do so. The OPP had indicated agreement with their view that the defence should be put on notice as to the existence of the documents and the PII claim upon them. Mr Elms asked that Mr Gipp draft a follow up letter to Mr Hargreaves as per his earlier advice.⁵⁰⁵⁸
3896. On 14 February 2010, Mr Gipp emailed lawyers from the VGSO, copying in Mr Davey. He attached a draft letter to be sent to Mr Hargreaves for consideration, including by Messrs Davey and Steven Smith.⁵⁰⁵⁹
3897. It is apparent that the letter referred to a further category of documents which might be considered relevant to the Dale murder committal, being file notes, diary entries, memoranda, letters, SMS, emails and other written materials pertaining to discussions and 'without prejudice negotiations' between members of the Petra Taskforce and Ms Gobbo, and later between the VGSO and Ms Gobbo and her solicitors. It was proposed to advise Mr Hargreaves of the existence of this material, and that a claim of LPP would be made in respect of some of the documents, and PII over all of the documents on the basis of police methodology, witness security and the integrity of the criminal justice system.⁵⁰⁶⁰
3898. It is apparent that Mr O'Connell had not informed Victoria Police lawyers of the content of his 7 January 2009 conversation with Ms Gobbo. On 16 February 2010, in an email between Messrs Elms and Ryan, copying in Messrs Steven Smith, Davey, McRae and Gipp, in which they were discussion the release of material to Ms Gobbo, Mr Elms said he was unaware of the content of the 7 January 2009 conversation and the potential

⁵⁰⁵⁵ Exhibit RC1727 Letter from Piper Alderman to VGSO, 12 February 2010, VGSO.2000.1510.0233.

⁵⁰⁵⁶ Exhibit RC1813 File note of David Ryan, 12 February 2010, VGSO.2000.1371.0345.

⁵⁰⁵⁷ Exhibit RC1703 Email from VGSO to Findlay McRae, 10 February 2010, VGSO.2000.1371.0381.

⁵⁰⁵⁸ Exhibit RC1707 Email from VGSO to Ron Gipp, 12 February 2010, VGSO.2000.1371.0331.

⁵⁰⁵⁹ Exhibit RC1693 Email from Ron Gipp to Greg Elms, Cameron Davey and David Ryan, 14 February 2010, VGSO.2000.1371.0323.

⁵⁰⁶⁰ Exhibit RC1709 Draft letter from VGSO to Mr Tony Hargreaves, 15 February 2010, VGSO.2000.1371.0309.

prejudice to the police or the case against Mr Dale if such material was to be released.⁵⁰⁶¹

18 February 2010 – Investigator Meeting with Lawyers

3899. Mr O’Connell’s diary indicates that on 18 February he was preparing material in response to the Dale subpoena, which included checking over the recording of his conversation with Ms Gobbo on 7 January 2009. Later that day, Mr O’Connell met with the Messrs Gipp and Ryan in relation to the Dale subpoena matter.⁵⁰⁶²

19 February 2010 – Hargreaves Conversation with Gipp

3900. On 19 February 2010, Mr Hargreaves received correspondence from the VGSO. It advised that:

- in relation to the 7 January 2009 conversation, part of the transcript would be produced, and further parts would be subject to claims of PII on the basis of police methodology and witness security issues
- there was a further category of documents over which LPP and PII claims would be made as per the draft letter sent by Mr Gipp referred to above.⁵⁰⁶³

3901. Mr Hargreaves spoke with Mr Gipp following his receipt of the letter. During the conversation:

- Mr Gipp said he anticipated that the defence would receive one additional folder of documents only. Mr Hargreaves expressed surprise, referring to matters including discussions with Ms Gobbo. Mr Gipp said he had been through the matter in detail with police and that was all he understood to exist
- Mr Hargreaves enquired whether Mr Gipp had viewed the redactions in the police material, to which Mr Gipp said he had not. Mr Hargreaves in expressing his concern gave an example of there being a reference to a meeting with Ms Gobbo, then everything relevant to the conversation having been deleted
- Mr Gipp stated he had given the police specific instructions in relation to editing, telling them to be circumspect and only to claim genuine police methodology. He said he had told the police if there was debate about it, then the Magistrate would be provided with the documents to form a view and if there were inappropriate claims it would affect the validity of other such claims made
- Mr Hargreaves said the defence were ‘very keen’ to get documents regarding Ms Gobbo and Mr Williams and stated that the credit of Ms

⁵⁰⁶¹ Exhibit RC1682 Email from Greg Elms to David Ryan, copying in Cameron Davey, Findlay McRae, Ron Gipp and Steven (Steve) Smith, 16 February 2010, VPL.6041.0003.5853.

⁵⁰⁶² Exhibit RC1347 Mr Shane O’Connell’s diary, 18 February 2010, 65, VPL.0005.0240.0111 @.0175; Transcript of Mr Shane O’Connell, 21 February 2020, 14797, TRN.2020.02.21.01; Exhibit RC1305D Supplementary statement of Mr Shane O’Connell, 18 February 2020, 9 [56] – [57], VPL.0014.0115.0039, @.0047.

⁵⁰⁶³ Exhibit RC1732 Letter from VGSO to Mr Tony Hargreaves, 19 February 2010, VGSO.5000.0023.0159; Exhibit RC1818 File note of Mr Tony Hargreaves’ conversation with Mr Ron Gipp, 19 February 2010, PND.021.005.0088.

Gobbo was a very live issue. Mr Gipp said he understood that, but if she had made 'other disclosures' they may claim informer privilege in relation to those matters

- Mr Hargreaves indicated that he anticipated there would be debate about some of the deletions in police notes.⁵⁰⁶⁴

22 February 2010 – Petra Board Concerned with Dale Subpoena

3902. On 22 February 2010, the Petra Taskforce Steering Committee met. The Committee was told that Mr Dale's matter had that day been adjourned to 1 March 2010 for further argument regarding the subpoena material, with the committal hearing scheduled to commence on 9 March 2010.⁵⁰⁶⁵ The Petra Taskforce Steering Committee also discussed the fact that Ms Gobbo had made threats to Petra Taskforce members that she would issue a writ prior to Mr Dale's committal hearing if it was still to go ahead and if their MOA was not suitable to her.⁵⁰⁶⁶

26 February – 1 March 2010 – Gobbo 'Compensation Issue'

3903. On 25 February 2010, Piper Alderman, lawyers for Ms Gobbo sent a letter to the OPP indicating that Ms Gobbo was medically unfit to give evidence, however providing no medical reports.⁵⁰⁶⁷

3904. On 26 February 2010, the OPP responded to this letter indicating that the DPP did not accept that Ms Gobbo was medically incapable of giving evidence at the committal and was a required witness. The letter warned that should Ms Gobbo fail to attend an application for a warrant for her arrest would be made and if issued, would be executed. The letter said this would remain the position of the Director until such time as medical reports were provided which satisfied him otherwise.⁵⁰⁶⁸

3905. On the same day, Piper Alderman sent a letter to the VGSO, advising that Ms Gobbo was no longer interested in participating in the witness protection program. A demand was made that Victoria Police provide her with the compensation that was promised to her.⁵⁰⁶⁹ Upon receipt of this letter Mr Cornelius sent an email to the DPP requesting an urgent meeting due to concerns that Ms Gobbo's demands may impact on her credit as a witness in the Dale committal.⁵⁰⁷⁰

⁵⁰⁶⁴ Exhibit RC1818 File note of Mr Tony Hargreaves' conversation with Mr Ron Gipp, 19 February 2010, PND.021.005.0088.

⁵⁰⁶⁵ Exhibit RC1766 Petra Taskforce Steering Committee Update, 22 February 2010, VPL.0100.0046.2526.

⁵⁰⁶⁶ Exhibit RC1766 Petra Taskforce Steering Committee Update, 22 February 2010, 38, VPL.0100.0237.1519 @.1556.

⁵⁰⁶⁷ Exhibit RC1725 Letter from OPP to Piper Alderman contained on file of Assistant Commissioner Luke Cornelius, 26 February 2010, VPL.0005.0012.2865.

⁵⁰⁶⁸ Exhibit RC1725 Letter from OPP to Piper Alderman contained on file of Assistant Commissioner Luke Cornelius, 26 February 2010, VPL.0005.0012.2865.

⁵⁰⁶⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.51], VPL.0014.0089.0003 @.0021; Exhibit RC1083 Email from Isabel Parsons to Findlay McRae, 26 February 2010, VPL.0005.0003.1000; Exhibit RC1726 Letter from Piper Alderman to VGSO, 26 February 2010, VPL.0005.0003.1014.

⁵⁰⁷⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.51], VPL.0014.0089.0003 @.0021; Exhibit RC1083 Email from Assistant Commissioner Luke Cornelius to Mr Howard Rapke, 26 February 2010, VPL.6023.0069.2388.

3906. On 1 March 2010, the VGSO wrote to Piper Alderman confirming that members of the Petra Taskforce would make no further direct contact with Ms Gobbo unless it was necessary to ensure her safety.⁵⁰⁷¹
3907. On 1 March 2010, Messrs Cornelius, Steven Smith and McRae met with Messrs Rapke, Horgan and Tiernan regarding Ms Gobbo's letter of 26 February 2010 and claims by Ms Gobbo that she was medically unfit to provide evidence.⁵⁰⁷²
3908. Mr Cornelius made a file note of the meeting and the discussion regarding the letter:⁵⁰⁷³

Clear position is that we should not respond to negotiation request/demand for F. Doing so would be foolish

Surveillance on F 2 days around service of letter notifying date of attendance to give evidence

Completed affidavit – witness suppression order.

3909. Mr Cornelius said that they also discussed Ms Gobbo's witness protection arrangements and subsistence payments.⁵⁰⁷⁴ Mr Cornelius could not recall Ms Gobbo's identity as a source being disclosed or discussed during this meeting.⁵⁰⁷⁵ He told the Commission that he did not disclose Ms Gobbo's role as a human source to Messrs Rapke and Horgan because Ms Gobbo had never been dealt with as a human source in the Petra investigation.
3910. When asked further whether he disclosed to the prosecution the advice of Mr Maguire as to the draft statement of Ms Gobbo to the Briars Taskforce he said he did not recall having a 'discussion around that'. When it was put to Mr Cornelius that the Briars Taskforce statement exposed a serious credit issue, he said he recalled having a discussion with Mr Rapke about continuing the Dale prosecution without Ms Gobbo's evidence but he believed that had more to do with her reluctance to give evidence. He was asked again if he had disclosed Ms Gobbo's draft Briars statement. He said he did not recall doing so and that he did not recall it being on his radar when he was meeting with Mr Rapke. Mr Cornelius said discovery and PII were ongoing issues which had not been settled at that point. He was asked how this issue was ongoing given they had received Mr Maguire's

⁵⁰⁷¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 19 [3.52], VPL.0014.0089.0003 @.0021; Exhibit RC1734 Letter from VGSO to Piper Alderman, 1 March 2010, VPL.6077.0014.9492.

⁵⁰⁷² Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 24 [141], VPL.0014.0057.0001 @.0024; Exhibit RC1776 Calendar invite for meeting with Mr Findlay McRae, Detective Inspector Steven Smith, Assistant Commissioner Luke Cornelius, Mr Jeremy Rapke and Mr Geoff Horgan with Assistant Commissioner Luke Cornelius' handwritten notes, VPL.0005.0012.2861.

⁵⁰⁷³ Exhibit RC1776 Calendar invite for meeting with Mr Findlay McRae, Detective Inspector Steven Smith, Assistant Commissioner Luke Cornelius, Mr Jeremy Rapke and Mr Geoff Horgan with Assistant Commissioner Luke Cornelius' handwritten notes, VPL.0005.0012.2861.

⁵⁰⁷⁴ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 24 [140], VPL.0014.0057.0001 @.0024.

⁵⁰⁷⁵ Exhibit RC0898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 24 [140], VPL.0014.0057.0001 @.0024.

advice over five months earlier, the previous September. Mr Cornelius said he did not know where they got to with the statement.⁵⁰⁷⁶

3911. It is submitted that Messrs Cornelius and Steven Smith knew that there was a more significant issue relating to Ms Gobbo's credit than the compensation issue. It is submitted that this was an opportunity to raise issues associated with Ms Gobbo's broader involvement with Victoria Police, aside from the Petra Taskforce investigators. Neither of them did so.

1 March 2010 – Defence Letter to the VGSO regarding Disclosure

3912. On 1 March 2010, Mr Hargreaves sent a letter to Greg Elms of the VGSO.
3913. Mr Hargreaves queried the lack of documentation provided to the defence in response to the subpoena, and noted substantial deletion of material relating to Ms Gobbo and the existence of further documents revealed by the notes of Mr Davey in which Ms Gobbo referred to a series of letters she had forwarded to the VGSO.⁵⁰⁷⁷
3914. Mr Hargreaves also confirmed that the credit of Mr Carl Williams and Ms Gobbo as witnesses in the case against Mr Dale were central issues for the defence, and accordingly, the defence intended to seek every document in relation to (a) dealings between Ms Gobbo and Victoria Police in relation to the investigation of Mr Dale; and (b) any discussion or negotiation that had taken place that played a role in her agreeing to give evidence.⁵⁰⁷⁸

1 March 2010 – Gipp Expresses Concern about Lack of Disclosure

3915. Later that day, Mr Elms forward Mr Hargreaves' letter to Mr Gipp and requested that he 'deal with the issues raised.'⁵⁰⁷⁹ Mr Gipp sent the letter to Mr Davey who ultimately sent it to Mr Steven Smith, copying Mr O'Connell and Mr Solomon.⁵⁰⁸⁰ In Mr Davey's email, he noted that:
- he had spoken with Mr Gipp
 - Mr Hargreaves was asking for further documentation in relation to specific areas as outlined in the letter
 - as to the request relating to ATO material, he asked if there were any further documents in the position of Victoria Police dealing with these negotiations, and whether Mr Overland had any such notes
 - as to the request for Witness F transcripts, Mr Gipp responded by stating that any redactions were for the purpose of PII claims and needed no further input

⁵⁰⁷⁶ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12531-12533, TRN.2020.01.29.01.

⁵⁰⁷⁷ Exhibit RC1351 Letter to Mr Greg Elms from Mr Tony Hargreaves, 1 March 2010, VGSO.2000.1510.0193.

⁵⁰⁷⁸ Exhibit RC1351 Letter to Mr Greg Elms from Mr Tony Hargreaves, 1 March 2010, VGSO.2000.1510.0193.

⁵⁰⁷⁹ Exhibit RC1198 Email chain involving Simon Overland, Steven (Steve) Smith, Tony Hargreaves and others, 1-2 March 2010, VPL.6018.0008.7075.

⁵⁰⁸⁰ Exhibit RC1198 Email chain involving Simon Overland, Steven (Steve) Smith, Tony Hargreaves and others, 1-2 March 2010, VPL.6018.0008.7075.

- Mr Gipp would enquire with the VGSO to assess the letters addressed to them, but asked for enquiries to be made of Messrs Steven Smith and O'Connell whether they had notes or letters from Ms Gobbo regarding negotiations, so he could assess them for PII
 - Mr Gipp was concerned if there are documents that existed that he (Mr Gipp) had not been informed about, then Victoria Police will look like it had tried to hide something from the defence
 - would they please ensure that Mr Gipp was made aware of any such material which existed.⁵⁰⁸¹
3916. Mr Steven Smith forwarded Mr Davey's email and the attached correspondence to then Acting Inspector Dan Trimble who was the chief of staff to Mr Overland, with whom he had already discussed the matter. Mr Steven Smith indicated to Mr Trimble that Victoria Police had handed over letters relating to the ATO matter, one from Mr McRae and one from Mr Cornelius, but they needed to know whether there was anything else that should be produced.⁵⁰⁸²
3917. Mr Trimble forwarded the enquiry to Mr Overland. Mr Overland responded that he did not have any documents matching those being sought.
3918. It is submitted that the email made clear that Mr Gipp was expressing concern about the withholding of material from him. Whilst it may be that Mr Davey's specific query could have been understood to be limited to ATO documents, it is submitted that Mr Overland was very aware of other relevant documentation in the form of letters sent by Ms Gobbo to him about negotiations between she and Victoria Police, which would have been very relevant to issues of credit and should have been provided to Mr Gipp for the purpose of assessing PII.

2 March 2010 – O'Connell Discloses a Little Bit More

3919. On 2 March 2010, Mr O'Connell spoke with Mr Gipp. He recorded the following in his diary:⁵⁰⁸³

Email received from Ron Gipp containing letter from Tony Hargreaves.

S/T Ron Gipp per phone re 60 recordings of contact with F – generally re safety, security, welfare and disclosure and Witsec matters – all PII. GIPP to disclose recordings to defence but claim PII.

Requested I prepare CDs (sic) of recordings for commencement of committal.

Commencement of subpoena material re Op. Loris.⁵⁰⁸⁴

⁵⁰⁸¹ Exhibit RC1198 Email chain involving Simon Overland, Steven (Steve) Smith, Tony Hargreaves and others, 1-2 March 2010, VPL.6018.0008.7075.

⁵⁰⁸² Exhibit RC1198 Email chain involving Simon Overland, Steven (Steve) Smith, Tony Hargreaves and others, 1-2 March 2010, VPL.6018.0008.7075.

⁵⁰⁸³ Exhibit RC1347 Mr Shane O'Connell's diary, 2 March 2010, 68, VPL.0005.0240.0111, @.0178.

⁵⁰⁸⁴ Exhibit RC1347 Mr Shane O'Connell's diary, 2 March 2010, 68, VPL.0005.0240.0111, @.0178.

3920. Mr O'Connell was asked in his evidence to the Commission to explain why it was that, aside from the 7 January 2009 conversation between he and Ms Gobbo, he had not disclosed the fact that Victoria Police had recordings of 60 conversations with Ms Gobbo. Mr O'Connell responded that he did not know whether he had told Mr Gipp about them earlier.⁵⁰⁸⁵
3921. Mr O'Connell was asked further if he had disclosed to Mr Gipp by this point that there were substantial SDU holdings in relation to Ms Gobbo. He said he did not know.⁵⁰⁸⁶
3922. It is submitted that the evidence demonstrates that Mr Gipp, who had been briefed in August 2009 to deal with disclosure and PII issues, was being told about this material for the first time by Mr O'Connell a week out from the committal.

3 March 2010 – Further Letter from Mr Hargreaves

3923. On 3 March 2010, Mr Hargreaves wrote a further letter to the VGSO seeking clarification of a number of matters, including:
- in relation to the ATO matter, in expressing an expectation that there would be more documents in existence, Mr Hargreaves indicated reference in notes to a committee which had considered the issue.⁵⁰⁸⁷
 - an inquiry into whether there had been any recording of the process in which Mr Williams statement came to be taken around Christmas 2008, which past experience dictated would normally be recorded.⁵⁰⁸⁸
3924. As to the first issue, Mr Smith had been given the responsibility for compiling such material. None had been disclosed.
3925. As to the second issue the way in which the recording of Mr Williams' debriefing and statement occurred was redacted from documentation that was provided to the defence.
3926. On 4 March 2010, Mr Davey raised the further letter received from Mr Hargreaves with Messrs O'Connell and Steven Smith via email. Mr Davey wanted an update on the 'situation' regarding the request for the ATO and Mr Carl Williams' agreement and negotiation documents so he could advise Mr Gipp.⁵⁰⁸⁹
3927. Following this, Mr Davey advised Mr Gipp that he had spoken with Messrs O'Connell and Steven Smith and that:
- there was no further documentation in relation to the ATO matter
 - no recordings existed of the statement taking process with Mr Carl Williams.⁵⁰⁹⁰

⁵⁰⁸⁵ Transcript of Mr Shane O'Connell, 21 February 2020, 14799-14800, TRN.2020.02.21.01.

⁵⁰⁸⁶ Transcript of Mr Shane O'Connell, 21 February 2020, 14799-14800, TRN.2020.02.21.01.

⁵⁰⁸⁷ Exhibit RC1722 Letter from Tony Hargreaves to Greg Elms, 3 March 2010, VGSO.2000.1510.0187.

⁵⁰⁸⁸ Exhibit RC1722 Letter from Tony Hargreaves to Greg Elms, 3 March 2010, VGSO.2000.1510.0187

⁵⁰⁸⁹ Exhibit RC1677 Email from Cameron Davey to Steven (Steve) Smith and Shane O'Connell, 4 March 2010, VPL.6058.0036.5671.

⁵⁰⁹⁰ Exhibit RC1675 Email from Cameron Davey to Ron Gipp, 4 March 2010, VGSO.2000.1510.0177.

3928. Subsequently, Mr Phillip Dodgson of the VGSO was advised of these findings by Mr Gipp and then went on to note the same in a letter to Mr Hargreaves on 4 March 2010.⁵⁰⁹¹ These deliberations continued with further letters sent between the parties on 17 and 18 March 2010. Victoria Police members continued to reiterate that this material did not exist.⁵⁰⁹²

4 to 8 March 2010 – O’Connell meets with VicPol counsel

3929. Also on 4 March 2010, Mr Davey received an email from Mr Dodgson informing him Ms Lucia Bolkas of counsel had also been briefed to conduct the PII argument as Mr Gipp had a period of unavailability.⁵⁰⁹³

3930. On 5 March 2010, Mr O’Connell met with Mr Gipp and Ms Bolkas to discuss the PII claims.⁵⁰⁹⁴

3931. On 8 March 2010, Mr O’Connell met again with Mr Gipp.⁵⁰⁹⁵ Later that day, Mr Gipp, who did not have Mr O’Connell’s email address, emailed Mr Davey attaching a draft affidavit for checking by Mr O’Connell.⁵⁰⁹⁶

9 March 2010 – Draft Confidential Affidavit of O’Connell

3932. On 9 March 2010 at 6:05am, Mr Davey sent the email enclosing the confidential affidavit to Mr O’Connell.⁵⁰⁹⁷ Mr Davey did not open and read the attached confidential affidavit.⁵⁰⁹⁸

3933. Following this, Mr O’Connell spoke with Mr Gipp and the draft confidential affidavit was slightly amended.⁵⁰⁹⁹

3934. At 7:37am, Mr Davey received a further email from Mr Gipp attaching the amended version of Mr O’Connell’s confidential affidavit for forwarding to Mr O’Connell. Again, Mr Davey did not open and read the confidential affidavit. Mr Davey did not know the contents of that confidential affidavit, or any draft of it, until it was shown to him for the purpose of preparing his statement for this Commission.⁵¹⁰⁰

⁵⁰⁹¹ Exhibit RC1720 Letter from Mr Phillip Dodgson to Mr Tony Hargreaves, 4 March 2010, VGSO.2000.1510.0173.

⁵⁰⁹² Exhibit RC1723 Letter from Mr Tony Hargreaves To Mr Phillip Dodgson, 17 March 2010, VGSO.2000.1510.0145; Exhibit RC1719 Letter from Mr Phillip Dodgson to Mr Tony Hargreaves, 18 March 2010, VGSO.2000.1510.0147.

⁵⁰⁹³ Exhibit RC1691 Email from Phillip Dodgson to Cameron Davey, 4 March 2010, VPL.6058.0036.5666; Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 2 [14], COM.0041.0004.0001 @.0002.

⁵⁰⁹⁴ Exhibit RC1347 Mr Shane O’Connell’s diary, 5 March 2010, 69, VPL.0005.0240.0111 @.0179.

⁵⁰⁹⁵ Exhibit RC1347 Mr Shane O’Connell’s diary, 5 March 2010, 69, VPL.0005.0240.0111 @.0179.

⁵⁰⁹⁶ Exhibit RC1353 Email from Ron Gipp to Cameron Davey, 8 March 2010, VPL.6041.0004.1680.

⁵⁰⁹⁷ Exhibit RC1353 Email from Cameron Davey to Shane O’Connell, 9 March 2010, VPL.6041.0004.1681; Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 4 [22], COM.0041.0004.0001 @.0004.

⁵⁰⁹⁸ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 5 [23], COM.0041.0004.0001 @.0005.

⁵⁰⁹⁹ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 5 [24], COM.0041.0004.0001 @.0005.

⁵¹⁰⁰ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 5 [24], COM.0041.0004.0001 @.0005.

3935. This confidential affidavit was made in support of a claim to set aside particular documents requested pursuant to the Dale subpoena. Amongst other matters, it stated that:
- in response to items of the subpoena, he produced documents including:
 - 4 hours and 53 minutes of audio recordings and transcripts of conversations between himself and Ms Gobbo on 7 January 2009;
 - approximately 48 additional hours of audio recordings of conversations between himself and Ms Gobbo since 7 January 2009; and
 - various diary notes of discussions involving Ms Gobbo from December 2008⁵¹⁰¹
 - he had produced a redacted transcript of the discussion between legal representatives for Mr Collins and Mr Dale on 7 January 2009. Redactions were made due to their irrelevance to the investigation of Mr Dale or PII.⁵¹⁰² The PII he relied on was informer privilege and police methodology in relation to Ms Gobbo's safety and security⁵¹⁰³
 - Ms Gobbo met with him and Mr Davey on 7 January 2009 prior to signing her statement.⁵¹⁰⁴ He had covertly recorded the conversation he had with Ms Gobbo in a hotel room.⁵¹⁰⁵ Mr Davey then entered the room and had Ms Gobbo read and sign her statement. He (Mr O'Connell) was not present when Ms Gobbo signed her statement⁵¹⁰⁶
 - during his conversation with Ms Gobbo, the matters she disclosed that resulted in his redactions for PII pertained to her identification as a registered police informer, her dealings with covert police members attached to a specialist unit for high-risk informers and her knowledge of criminal conduct committed by persons such as Messrs Tony, Horty and Milad Mokbel, Mick Gatto, Rob Karam, Mr Thomas and Mr Cooper⁵¹⁰⁷
 - he claimed that the above matters were the subject of ongoing investigation by the Purana Taskforce and therefore could not be disclosed⁵¹⁰⁸

⁵¹⁰¹ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 2 [4], VPL.6041.0004.1699 @.1700.

⁵¹⁰² Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 3 [7], VPL.6041.0004.1699 @.1701.

⁵¹⁰³ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 3 [8], VPL.6041.0004.1699 @.1701.

⁵¹⁰⁴ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 4 [10], VPL.6041.0004.1699 @.1702.

⁵¹⁰⁵ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 4 [12], VPL.6041.0004.1699 @.1702.

⁵¹⁰⁶ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 4 [13], VPL.6041.0004.1699 @.1702.

⁵¹⁰⁷ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 4 - 5 [15], VPL.6041.0004.1699 @.1702 - .1703.

⁵¹⁰⁸ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 5 [16], VPL.6041.0004.1699 @.1703.

- he had detailed discussions with Ms Gobbo regarding witness security and financial assistance that could be provided to her as [REDACTED] [REDACTED].⁵¹⁰⁹ These could also not be disclosed
- he annexed and produced the remaining 48 hours of conversation recordings downloaded onto CDs which were said to predominantly related to the welfare, safety and security of Ms Gobbo as a witness,⁵¹¹⁰ and the only disclosure made in relation to the investigation of Mr Dale was that when he had been arrested and remanded in custody (in December 2003), he had requested she represent him in a bail application. Ms Gobbo reported having visited Mr Dale in custody to advise him she could not act due to a conflict of interest, and she had further emailed Mr Hargreaves as to that fact⁵¹¹¹
- if transcripts were required for the 48 hours of conversation it would take several months to prepare.⁵¹¹²

3936. It does not appear that this draft confidential affidavit was ever filed. Consequently, the Court was not informed as to the above matters.

3937. Mr Cornelius was asked if he was aware that Mr O'Connell was potentially going to depose to Ms Gobbo being a human source registered by a specialist unit who had provided information about such organised figures. He said that he did not recall being briefed about that, and the only thing that was really able to trigger his memory was a reference in a steering committee briefing paper or minute, or notes he had taken.⁵¹¹³

9 March 2010 – Draft Confidential Affidavit of Davey

3938. A draft confidential affidavit had also been prepared by Mr Gipp for signing by Mr Davey. This confidential affidavit was made in support of a claim to set aside particular documents requested pursuant to the Dale subpoena.⁵¹¹⁴ Amongst other matters, it stated that:

- on 1 February 2010, with the endorsement of the Court, the parties had commenced negotiations to narrow the scope of the subpoena
- he had produced a redacted 'questionnaire' to the defence. The redactions were made due to their irrelevance to the investigation of

⁵¹⁰⁹ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 5 - 6 [28], COM.0041.0004.0001 @.0005 - .0006; Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 5 [17], VPL.6041.0004.1699 @.1703.

⁵¹¹⁰ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 6 [20] – [21], VPL.6041.0004.1699 @.1704.

⁵¹¹¹ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 6 [21], VPL.6041.0004.1699 @.1704.

⁵¹¹² Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 7 [22], VPL.6041.0004.1699 @.1705.

⁵¹¹³ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12534-12535, TRN.2020.01.29.01.

⁵¹¹⁴ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 5 [26], COM.0041.0004.0001 @.0005; Exhibit RC1354 Email from Cameron Davey to Ron Gipp attaching Davey Confidential Affidavit, 9 March 2010, VPL.6041.0004.1666, VPL.6041.0004.1667.

Mr Dale or PII.⁵¹¹⁵ The PII he relied on was informer privilege and police methodology in relation to Ms Gobbo's safety and security⁵¹¹⁶

- the informer privilege was claimed as Ms Gobbo had referred to information she had received from persons such as Messrs Tony Mokbel, Bruno D'Aloia, Daniel Hutchinson and Thomas pertaining to unrelated criminal activity
- he produced a number of post-it notes pertaining to disclosure by Ms Gobbo about Mr Tony Mokbel claiming responsibility for the Hodson murders, and her belief he had given Ms Abbey Haynes forewarning. Mr Davey said he had conducted extensive and thorough investigation of Mr Tony Mokbel's possible involvement in the Hodson murders and concluded he was not responsible. A claim of PII over this material was made on the grounds of their being a public interest in securing and maintaining Ms Gobbo's safety as a prosecution witness and her general welfare
- he produced transcripts of OPI hearings with Ms Gobbo in 2007 which were said to have included unrelated matters such as her involving with Messrs Tony Mokbel, Horthy Mokbel and informer disclosures about alleged criminal activities by them as well as other matters. To the extent that any of this material was deemed relevant, a claim of PII was made on the grounds of informer privilege or it contained information which should it be known to certain individuals, would result in serious injury or death to Ms Gobbo.

3939. On 9 March 2010, at 6:57am, Mr Davey emailed Mr Gipp asking that he ring him upon receipt of the email as he needed to discuss the draft confidential affidavit.⁵¹¹⁷ Mr Davey told the Commission that this related to a concern by him about the claim of informer privilege being made over the questionnaire. Mr Davey said this was not correct, she had not been acting as an informer for him and he was unaware of her status as a human source.⁵¹¹⁸

3940. Mr Davey said he assumed in hindsight that this affidavit had been prepared by Mr Gipp based on conversations he had with Mr O'Connell in his absence.⁵¹¹⁹

3941. At 7:31am, having spoken with Mr Gipp, Mr Davey received an email containing a further draft of the confidential affidavit from Mr Gipp.⁵¹²⁰

⁵¹¹⁵ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 3 [7], VPL.6041.0004.1699 @.1701.

⁵¹¹⁶ Exhibit RC1354 Confidential Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, 9 March 2010, 3 [8], VPL.6041.0004.1699 @.1701.

⁵¹¹⁷ Exhibit RC1354 Email from Cameron Davey to Ron Gipp attaching Davey Confidential Affidavit, 9 March 2010, VPL.6041.0004.1666, VPL.6041.0004.1667.

⁵¹¹⁸ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 5 - 6 [27] – [28], COM.0041.0004.0001 @.0005 - .0006.

⁵¹¹⁹ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 6 [30], COM.0041.0004.0001 @.0006.

⁵¹²⁰ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 6 [32], COM.0041.0004.0001 @.0006; Exhibit RC1353 Email from Ron Gipp to Cameron Davey containing draft confidential affidavit, 9 March 2010, VPL.6041.0004.1887, VPL.6041.0004.1888.

9 March 2010 – Discussions between Gipp and Defence

3942. On 9 March 2010, the committal of Messrs Dale and Collins in relation to the murder of the Hodson's commenced.

3943. The VGSO file note of the hearing indicates, amongst other matters that:⁵¹²¹

- Mr Gipp made reference to two affidavits to be filed claiming PII on the basis of witness safety and security and informer privilege
- the Magistrate expressed frustration that such issues were holding up proceedings after there had been nine months notice.

3944. The Petra Taskforce weekly update on 9 March 2010 provides that the first day of the Committal was stood down so the parties could negotiate and settle on the subpoena issues.⁵¹²² The Petra Taskforce update notes:

...Subpoenas asking for material such as entire Hodson informer management files with all IR's etc.

Hearing currently stood down until 2 p.m. Magistrate has insisted that parties attempt to negotiate settlement in relation to subpoena discovery matters.

*Three members, Detective Sergeant Solomon and Senior Detectives Davey and Simpson will run committal for next four weeks.*⁵¹²³

3945. The VGSO file note indicates that upon resumption of the committal hearing:⁵¹²⁴

- Mr Gipp indicated that agreement had been reached in relation to some material, and he proposed to inform the Magistrate of the 'highlights' of the remaining matters to be argued, which he then did
- Mr Ramon Lopez of counsel, appearing on behalf of Mr Dale, indicated that material was sought relating to Ms Gobbo's relationships. In this regard he pointed out the numerous people Ms Gobbo had represented who were associated with the issues in the trial including people from the Dublin Street premises (Mr Adam Ahmed, Ms Abbey Haynes and Ms Colleen O'Reilly) as well as Messrs Terrence Hodson, Andrew Hodson, Nadim Ahmed, Mr Dale, Tony Mokbel, Mr Thomas, and Carl and George Williams. He also noted that it had been alleged that Mr Ahmed had told Ms Haynes to get an alibi for the night of the murder, and Mr Ahmed was with Ms Gobbo and that there was a live issue as to Mr Tony Mokbel having involvement in the Dublin Street burglary
- Mr Gipp indicated that they would attempt to further narrow the materials subject to claims of PII and produce those documents with a confidential affidavit.

⁵¹²¹ Exhibit RC1821 VGSO File Note, 9 March 2010, 1-2, VGSO.2000.1510.0160, .0001 - .0002.

⁵¹²² Exhibit RC1058 Petra Taskforce Update, 9 March 2010, VPL.0100.0046.2535.

⁵¹²³ Exhibit RC1058 Petra Taskforce Update, 9 March 2010, VPL.0100.0046.2535.

⁵¹²⁴ Exhibit RC1821 VGSO File Note, 9 March 2010, 1-2, VGSO.2000.1510.0160, .0001 - .0002.

10 March 2010 – Hargreaves Requests Gobbo’s Informer Management File

3946. On 10 March 2010, Mr Hargreaves rang Mr Gipp and said he had been looking at the Victoria Police Informer Management Policy, which dictated that an IMF must exist detailing all matters relating to dealings with an informer. Mr Hargreaves said that as Victoria Police were relying upon the informer privilege claim in respect of Ms Gobbo, then there must be an IMF. Mr Gipp told Mr Hargreaves that he had never seen such a file, and that he had explained that Ms Gobbo’s was an unusual case because after Mr O’Connell had discussions with her, Mr Steven Smith had become involved and then when lawyers became involved Petra had handed over WPP discussions and ‘informer compensation’ issues to the VGSO. Mr Gipp said because of the nature of these dealings it was probable there was no IMF in existence for her, but he would enquire with Mr O’Connell.⁵¹²⁵
3947. Mr Gipp then spoke with Mr O’Connell who admitted that Ms Gobbo had been a registered human source beforehand and that it was probable there was an IMF, but said those matters were unrelated to the Dale murder prosecution. Mr Gipp told Mr O’Connell to enquire of the HSMU whether there was a file and if so, whether it fell within the scope of the subpoena.⁵¹²⁶
3948. Following the call with Mr O’Connell, Mr Gipp advised his instructor at the VGSO, Mr Dodgson of the matters above, indicating he had to be very careful not to disclose that Ms Gobbo was a registered human source in the past in relation to other matters.⁵¹²⁷

3949. On the evidence, it is open to the Commissioner to find that Mr O’Connell lied to Mr Gipp concerning these matters. That is so, because Mr O’Connell knew that relevant material was held by Victoria Police in relation to Ms Gobbo’s history as a human source. He had recently reviewed the 7 January 2009 conversation for the purposes of the PII application. At the very least he was aware that the SDU would have material which would reveal significant credit issues, including that Ms Gobbo had admitted providing privileged documents of Mr Dale’s to police.

10 March 2010 – Petra Request Urgent Meeting with SDU

3950. On 10 March 2010, Mr Sandy White received a message from Mr Richards indicating that there was an urgent request to meet with Mr Steven Smith regarding ‘Witness F’.⁵¹²⁸ Later that day, Mr Sandy White met with Mr Steven Smith and Mr O’Connell. The diary of Mr Sandy White records the following in respect of that meeting:

Advised that DALE/COLLINS committal commenced on Monday with legal argument concerning PII issues re documents defence had subpoenaed but Vicpol had not supplied

⁵¹²⁵ Exhibit RC1355 Email from Ron Gipp to Phillip Dodgson, 10 March 2010, VGSO.2000.1510.0149.

⁵¹²⁶ Exhibit RC1355 Email from Ron Gipp to Phillip Dodgson, 10 March 2010, VGSO.2000.1510.0149.

⁵¹²⁷ Exhibit RC1355 Email from Ron Gipp to Phillip Dodgson, 10 March 2010, VGSO.2000.1510.0149.

⁵¹²⁸ Exhibit RC0461 Mr Sandy White diary, 10 March 2010, 35, VPL.2000.0001.2246 @.2280.

Ron GIPP representing police on PII argument, mentioned that material is subject to PII claim re methodology, 'informer privilege', etc.

Tony HARGREAVES present in court, instructing defence, has now served subpoena on VicPol requesting any informer management file and material relevant to DALE.

Do not want to disclose HS role as informer.

Is unlikely witness F will give evidence because she states she is too ill, however she has refused to supply medical evidence. OPP intend to subpoena or even arrest same.⁵¹²⁹

If witness is not going to give evidence, then would appear a waste of time discussing PII issues. SO'C to speak to GIPP and crown re determining whether witness will give evidence and therefore need to respond to defence subpoenas relevant to same.

SS to make written request to Supt. PORTER as SCR for release of information relevant to DALE. Suggested that SDU access SCR's for search of DALE references.

This material could then be supplied to GIPP for assistance re PII argument.

Defence entitled to know whether prior inconsistent statements.

Revealing fact that HS was a HS several years prior to involvement with Petra will compromise same and confirm her police assistance at the time of the MOKBEL investigation.⁵¹³⁰

3951. Mr O'Connell's diary records the following in respect of that meeting:

IMF does exist

There are disclosures re Hodson murders

Disclosure of material would identify her

1-2 weeks to identify material

Insist on non-disclosure of all material re PII – identify F.⁵¹³¹

3952. **On the evidence, it is open to the Commissioner to find that those present at the 10 March 2010 meeting, namely Messrs Sandy White, Steven Smith and O'Connell, were cognisant of the desire to conceal Ms Gobbo's historic role as a human source, because it might have an impact upon convictions and prosecutions arising out of the 'Mokbel investigation', a reference to Operation Posse.**

3953. Following the meeting, Mr O'Connell told Mr Gipp of the existence of the IMF, including that there had been disclosures by Ms Gobbo relating to the

⁵¹²⁹ Exhibit RC0461 Mr Sandy White diary, 10 March 2010, 35, VPL.2000.0001.2246 @.2280.

⁵¹³⁰ Exhibit RC0461 Mr Sandy White diary, 10 March 2010, 35, VPL.2000.0001.2246 @.2280.

⁵¹³¹ Exhibit RC1347 Mr Shane O'Connell diary, 10 March 2010, 70, VPL.0005.0240.0111 @.0180.

Hodson murders. Mr O'Connell told Mr Gipp that he estimated it would take one to two weeks to identify the material and that disclosure of it would identify Ms Gobbo as a registered human source. Mr Gipp advised that there may be no way of preventing disclosure of material if it was relevant to the case.⁵¹³²

3954. It is apparent that Mr Gipp told Mr O'Connell that he would advise Mr Hargreaves that further material had been identified over which a claim for PII may be made, but that he would not identify the source of that material, at least at that stage.⁵¹³³

3955. Later that day, Mr Gipp rang Mr Hargreaves and informed him, without indicating an IMF existed, that further documents had been identified. According to a letter written by Mr Hargreaves to the VGSO a number of weeks later, Mr Gipp indicated it would take approximately five days for copies of those documents to be obtained, at which time a claim for PII would be considered.⁵¹³⁴

11 March 2010 – Smith Emails HSMU regarding Disclosure

3956. On 11 March 2010, at 7:32am, Mr Steven Smith sent an email to Superintendent Porter of the HSMU, copying Mr O'Connell. Mr Smith indicated that he had a meeting with Mr Sandy White in relation to 'RHS 3838 (2958)', and noted that:⁵¹³⁵

- Mr Hargreaves had requested production of any informer management file of the witness during the committal of Mr Dale.
- Mr Gipp, counsel representing the Chief Commissioner of Police, had advised that on the face of it, Victoria Police were obliged to hand over any documents on file that related to the Hodson matter
- Petra requested permission to access the file and indemnify documents that may need to be produced
- he understood the ramifications of this situation and had discussed it at length with Mr Sandy White and would also bring it to the attention of the 'Steering Committee'
- once the documents have been accessed, Petra would negotiate any production, redacted or otherwise, with Mr Gipp.⁵¹³⁶

11 and 12 March 2010 – Smith Updates Cornelius and McRae

3957. At 4:00pm that afternoon, Mr Steven Smith spoke to and updated Mr Cornelius on a number of matters noted in his diary as:

- Conduct of committal

⁵¹³² Exhibit RC1347 Mr Shane O'Connell diary, 10 March 2010, 71, VPL.0005.0240.0111 @.0181.

⁵¹³³ Exhibit RC1347 Mr Shane O'Connell diary, 10 March 2010, 71 (VPL.0005.0240.0111 @.0181).

⁵¹³⁴ Exhibit RC1045 Letter from Hargreaves to VGSO, 31 March 2010, VGSO.5000.0004.7058.

⁵¹³⁵ Exhibit RC1044 Email from Steven (Steve) Smith to Mark Porter copying Shane O'Connell, 11 March 2010, VPL.6118.0046.5217.

⁵¹³⁶ Exhibit RC1044 Email from Steven (Steve) Smith to Mark Porter copying Shane O'Connell, 11 March 2010, VPL.6118.0046.5217.

- Suppression orders relating to Ms Gobbo and Carl Williams
- Informer Management File
- Issues at court.⁵¹³⁷

3958. On 12 March 2010, at 8:42am, Ms Gobbo's lawyers emailed Mr Ryan referring to discussions the previous day, alerting them to Ms Gobbo's objection to the production of the redacted 7 January 2009 transcript, as she believed this would 'lead to her being killed'. Mr Ryan responded, blind copying Messrs Gipp and Smith, indicating he had obtained instructions that the redacted transcript would be produced to the Magistrate for the purpose of PII argument. He indicated further that they would resist production of the redacted transcript until the following Monday and would seek to have the matter stood down if the Magistrate was not so minded.⁵¹³⁸
3959. On 12 March 2010, at 11:45am, Mr Steven Smith attended at the Victoria Police Centre and met with Messrs Cornelius and McRae. He provided an update on the conduct of the Dale committal as well as issues relating to the subpoena and the suppression order application regarding the involvement of Ms Gobbo as a witness in the proceeding.
3960. Mr Steven Smith said that they had an awareness that Ms Gobbo had been a registered human source and that was going to be something that may have impacted upon her evidence as a witness. He accepted during his evidence to the Commission that the meeting with Mr Sandy White indicated that there had been no effort prior to the committal to obtain documents in relation to Ms Gobbo from the SDU. He was asked further about this:

MS TITTENSOR: My question is that document indicates that there had been no effort prior to the committal starting to obtain documents in relation to Ms Gobbo from the SDU?

MR SMITH: Yeah, I accept that.

MS TITTENSOR: Can you explain it?

MR SMITH: Explain why we wouldn't have?

MS TITTENSOR: Yes. Knowing that the SDU is going to hold a significant amount of material and information in relation to Ms Gobbo, and information which you already knew would impact upon her credit, why was this the very first time that the SDU were contacted?

MR SMITH: I don't know whether or not that we've been blind to any knowledge about her role as an informer.

MS TITTENSOR: I think we had an understanding of the fact that it was, that she had been a registered human source and that that was going to be something that may have impacted on her evidence as a

⁵¹³⁷ Exhibit RC1192 Detective Inspector Steven Smith diary, 11 March 2010. RCMPI.0126.0001.0007 @.0272.

⁵¹³⁸ Exhibit RC1667 Email chain involving Piper Alderman, VGSO, Steven (Steve) Smith and Ron Gipp, 12 March 2010, VGSO.2000.0137.0058.

witness. This was a stage where it was, if you like, being formalised by the production of the documents that pretty much was going to re-enforce that. This was a committal proceeding for the defence to be able to explore deficiencies in the case being brought against Mr Dale and Mr Collins?

MR SMITH: Yes.

MS TITTENSOR: You were obliged to disclose this material?

MR SMITH: Yes.

MS TITTENSOR: You had taken no steps at all down that path?

MR SMITH: I'm not sure I agree with the way that's been put. The steps to go down that path were to commence with a subpoena and we would have complied with that subpoena.

MS TITTENSOR: You had taken no steps prior to the committal starting to even ascertain what sort of material might be available about Ms Gobbo within the SDU?

MR SMITH: Not the actual informer file, no. Not the actual documents.

MS TITTENSOR: This is the first time that Sandy White has been consulted in relation to that material?

MR SMITH: Well the actual file itself, yes.

MS TITTENSOR: There had been no - it seems to indicate that there had been this thought, from a very early stage, that "we're going to get away with this notion that we don't have to disclose Ms Gobbo's history in relation to this Petra investigation"?

MR SMITH: No, I don't think I'd necessarily follow that at all.

MS TITTENSOR: "It's only that Mr Hargreaves is now pressing for this informer management file that we have to actually face this matter"?

MR SMITH: I don't know what we would have done with the file prior to that or who we would have given it to. There was no reason for us to access the file. We had an understanding of her role and the fact that she was an informer. We knew it was going to be something that may have been put to her in the prosecution. The production, the subpoena - this particular issue was the actual physically obtaining of the file and handing over in compliance with the subpoena.

MS TITTENSOR: You knew there would be relevant material held by the SDU in relation to the Dale prosecution?

MR SMITH: *Potentially, yes.*

MS TITTENSOR: *You knew you were obliged to disclose that?*

MR SMITH: *Yes. We're disclosing it in relation to the subpoena and we were making efforts to do that when the subpoena was obtained.*

MS TITTENSOR: *This was only occurring because Mr Hargreaves had asked for any informer management file. This wasn't occurring as a result of the subpoena?*

MR SMITH: *That's the process. The subpoena was served and we would have complied with the subpoena and sought the file and handed it over.*

MS TITTENSOR: *I'm just pointing out to you that this inquiry with Sandy White is not occurring as a result of the subpoena, it's occurring as a result of a specific inquiry by Mr Hargreaves at that time, and regardless of that, despite any subpoena, you had an obligation to disclose it anyway?*

MR SMITH: *Disclose it to Hargreaves pre-committal?*

MS TITTENSOR: *You had disclosure obligations; is that right?*

MR SMITH: *Yes.*

MS TITTENSOR: *Do you accept that?*

MR SMITH: *Yes. If we hadn't - I think I understand what you're saying. If it hadn't formed part of the subpoena.*

MS TITTENSOR: *Yes?*

MR SMITH: *It would have been still disclosed.*

MS TITTENSOR: *Yes?*

MR SMITH: *Yes.*

MS TITTENSOR: *It was still - you were still obliged to disclose it?*

MR SMITH: *Yes.*

MS TITTENSOR: *You were obliged to disclose - - - ?*

MR SMITH: *And that's what occurred.*

MS TITTENSOR: *- - - relevant material which might assist the defence in the conduct of their case?*

MR SMITH: *Yes.*

MS TITTENSOR: *This was the very first time there was any contemplation of accessing Ms Gobbo's informer management file or anything of the like?*

MR SMITH: *Yes.*

MS TITTENSOR: And it was reactive to Mr Hargreaves making a specific request for it?

MR SMITH: Yes. I think the fact that it was handed over then in relation to the subpoena is something that we would have - I'm sorry, I'm stuttering a bit here – we would have complied with that obligation. If this was the process that allowed us to comply with that well then - - -

MS TITTENSOR: The process that allows you to comply with that is the laws relating to disclosure?

MR SMITH: And I suppose what I'm saying to you is that, yes, it hadn't been done prior to that, but putting the subpoena issue to one side, we would have sought for that to have been produced and disclosed.⁵¹³⁹

3961. Mr Steven Smith recalled that during this period there was discussion about whether Ms Gobbo's informer status needed to be disclosed. He said it would potentially have been raised at Steering Committee level.⁵¹⁴⁰ When Mr Smith was taken to his diary notes of the meeting with Mr Cornelius following this meeting with Mr Sandy White, he said he would have told Mr Cornelius about the defence request about Ms Gobbo's IMF and that he had spoken with Mr Sandy White and the HSMU about those matters.⁵¹⁴¹

3962. Mr Cornelius said he had no recollection of an issue relating to Ms Gobbo's IMF being raised with him. He said he had no records indicating that had occurred. Mr Cornelius was then asked about his expectation in such circumstances:

MS TITTENSOR: Do you expect that the investigators having had such discussions with the SDU should have made you aware of those issues?

MS CORNELIUS: They could well have made me aware of those issues. I don't think they did make me aware of those issues because I don't recall being told about the matters that you've just outlined to me. As to whether they might have or should have, well, they may well have had that view. I've got no, I can't recall any specific awareness around the ins and outs of the pre-trial preparation. That really wasn't, that really wasn't information that was canvassed with me.⁵¹⁴²

3963. Mr Smith had undertaken to Mr Porter, a superior officer, that he would bring the ramifications of Ms Gobbo's exposure as a human source to the attention of the Petra Taskforce Management Committee. Mr Cornelius was the chair of that committee. The most serious of the ramifications raised

⁵¹³⁹ Transcript of Detective Inspector Steven Smith, 13 February 2020, 13978-13981, TRN.2020.02.13.01.

⁵¹⁴⁰ Transcript of Detective Inspector Steven Smith, 13 February 2020, 13977, TRN.2020.02.13.01.

⁵¹⁴¹ Transcript of Detective Inspector Steven Smith, 13 February 2020, 13981, TRN.2020.02.13.01.

⁵¹⁴² Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12533-12534, TRN.2020.02.13.01.

was that disclosure would involve revealing that Ms Gobbo had been a human source for a number of years prior to her having become a witness for Petra, and confirm her assistance at the time of the investigation of the Mokbels. Such a revelation would have the effect of increasing the risk to Ms Gobbo's safety to a significant degree.

3964. Both Messrs Cornelius and McRae had continued to be involved in briefings and decision making in relation to Ms Gobbo. This included matters concerning her safety and [REDACTED], as well as responses to her threats to issue proceedings against Victoria Police and concerns that she would seek to avoid giving evidence.⁵¹⁴³
3965. Based on the above, it is submitted that if it was not already known to them before this time, it would have been apparent to them at this time, that Ms Gobbo's status as a human source had not been disclosed previously to lawyers acting for Victoria Police during the committal, or to the prosecution or to the Court. This was despite the advice given by Mr Maguire the previous September that Ms Gobbo's past would 'probably be declared to the court at a minimum' in the Petra prosecution.
3966. As referred to earlier, Mr Cornelius told the Commission that he had not informed the DPP of Ms Gobbo's status when they were discussing issues relating to her, including credit issues, because she was not a human source for Petra. This appears to have been a view shared by Messrs O'Connell and Steven Smith who, like Mr Cornelius, were aware of Ms Gobbo's status as a human source.

3967. On the evidence, it is open to the Commissioner to find that on 12 March 2010, Messrs Cornelius and McRae:

- 3967.1. discussed with Mr Steven Smith concerns over what was at the time, a very real prospect that the extent of Ms Gobbo's role as a human source, dating back to the investigation of the Mokbels, would be exposed**
- 3967.2. each being aware of the advice given by Mr Maguire, each took it upon themselves to determine that Ms Gobbo's history as a human source was simply not relevant and therefore was not to be the subject of any legal advice or judicial scrutiny.**

12 March 2010 – Open Affidavit Sworn by O'Connell

3968. On 12 March 2010, Mr O'Connell swore and filed an affidavit in support of his claim to set aside part of the subpoena dated 27 January 2010.⁵¹⁴⁴
3969. The affidavit was no longer confidential and was much shorter than the draft confidential affidavit of 9 March 2010. It no longer referred to redactions of

⁵¹⁴³ Exhibit RC898 Statement of Assistant Commissioner Luke Cornelius, 20 September 2019, 24 [142], VPL.0014.0057.0001 @.0024.

⁵¹⁴⁴ Exhibit RC1510 Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, sworn 12 March 2010, VGSO.2000.1510.0073.

the 7 January 2009 transcript or information disclosing that Ms Gobbo was a registered human source.

3970. The affidavit referred to discussions on 9 March 2010 between counsel for all parties that narrowed the dispute surrounding the disclosure of documents.⁵¹⁴⁵ Mr O'Connell deposed:

It was accepted by legal practitioners for Mr Dale that it was impracticable to listen to or obtain transcripts of the audio recordings of conversations between myself and Ms Gobbo conducted since 7 January 2009 (approximately 48 hours in length)...

It was agreed between the parties that counsel for the Chief Commissioner of Police, Mr Gipp, would peruse the remaining documents... and would isolate any references to the identities of informers and disclosures by informers.⁵¹⁴⁶

12 March 2010 – Mr Davey's Further Affidavit

3971. On the night of 11 March 2010, Mr Davey received a further email from Mr Gipp adding some extra paragraphs to his earlier draft confidential affidavit. Then on the morning of 12 March 2010 a further copy of the draft confidential affidavit was sent by Mr Gipp to Mr Davey.⁵¹⁴⁷
3972. These versions of the draft confidential affidavit no longer included the claim of informer privilege over information provided by Ms Gobbo. Rather, it was drafted on the basis that Mr Davey claimed PII on the grounds that he wished to maintain Ms Gobbo's safety as a prosecution witness and her general welfare. This was reflective of the instructions Mr Davey gave Mr Gipp regarding his concerns of the initial draft on 9 March.⁵¹⁴⁸

3973. **On the evidence, it is open to the Commissioner to find that Mr Davey and Mr Solomon had not been privy to the fact that Ms Gobbo had been a registered human source.**

18 to 19 March 2010 – Smith Examined regarding Subpoenas

3974. On 18 and 19 March 2010, Mr Steven Smith gave evidence before the Magistrate in relation to the subpoena issues.

⁵¹⁴⁵ Exhibit RC1510 Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, sworn 12 March 2010, 3 [5]-[8], VGSO.2000.1510.0073 @.0075.

⁵¹⁴⁶ Exhibit RC1510 Affidavit of Mr Shane O'Connell, *Cameron Davey v Paul Noel Dale & Rodney Charles Collins*, sworn 12 March 2010, 3 [6] – [7], VGSO.2000.1510.0073 @.0075.

⁵¹⁴⁷ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 6 [33], COM.0041.0004.0001 @.0006; Exhibit RC1692 Email from Ron Gipp to Cameron Davey containing draft confidential affidavit, 11 March 2010, VPL.6041.0004.1996, VPL.6041.0004.1997; Exhibit RC1692 Email from Ron Gipp to Cameron Davey containing draft confidential affidavit, 12 March 2010, VPL.6041.0004.1986, VPL.6041.0004.1987.

⁵¹⁴⁸ Exhibit RC1546 Supplementary Statement of Mr Cameron Davey, 22 May 2020, 6 - 7 [33] – [34], COM.0041.0004.0001 @.0006 - .0007.

3975. On 18 March 2010, Mr Lopez on behalf of Mr Dale, commenced by referring to Ms Gobbo's IMF, and asking some general questions about what an IMF was. Mr Smith claimed public interest immunity.⁵¹⁴⁹
3976. Mr Lopez came back to this issue the following day. Objection was taken by Ms Bolkas on the basis that it was outside the scope of the subpoena and was not within the scope of the issues between the parties at that stage. Mr Lopez indicated that he had raised this material the previous day, and that defence had been informed by Mr Gipp that documents had been located and it would take some time to organise them, and he wished to ask some questions about that. His Honour indicated that questions should not be asked of the witness prior to Mr Gipp reviewing the documents for public interest immunity.⁵¹⁵⁰
3977. Mr Smith was asked questions relating to the Williams ATO matter and the lack of documentation provided to the defence (about which Mr Hargreaves had earlier expressed concern to Mr Gipp). When asked by Mr Lopez about the Steering Committee which had been chaired by Mr Overland, Mr Smith indicated that he did not understand there to be minutes of those meetings, that he did not make notes of any discussions, nor did he record any decision later. Mr Smith said he believed that after he had conveyed the ATO issue to the Steering Committee, the decision had been taken out of the hands of the Steering Committee and was made by Mr Overland.⁵¹⁵¹
3978. Later Mr Smith was examined by Mr Julian McMahon, on behalf of Mr Collins who sought to clarify the position in relation to the Petra Taskforce Steering Committee documentation. Mr Smith said there were no minutes, no written agenda and the meetings were not recorded in any way unless others made notes of which he was not aware. When asked by Mr McMahon if he had provided written reports to the Steering Committee, he said he had. When asked if the documents had been discovered or provided pursuant to the subpoena, Mr Smith said these were documents which had been adverted to in a letter sent to Mr Hargreaves over which privilege had been claimed.
3979. Mr Smith admitted that those documents also included material relevant to the taxation payment to Mr Williams. Mr Smith said he was aware that the Court had been told on numerous occasions that there were no other relevant documents apart from those produced pursuant to the subpoena.⁵¹⁵²

29 March 2010 – Emails between O'Connell and Bolkas

3980. It appears that on 29 March 2010, Ms Bolkas was having some communications about the matter with Mr O'Connell. She forwarded him an email entitled 'Letter from Hargreaves'. It appears this related to Mr

⁵¹⁴⁹ Exhibit RC1191, Transcript of Detective Inspector Steven Smith in the committal of Mr Paul Dale and Mr Rodney Collins, 18 March 2010, VPL.0100.0237.2123 @.2127 - .2129.

⁵¹⁵⁰ Exhibit RC1191 Transcript of Detective Inspector Steven Smith in the committal of Mr Paul Dale and Collins, 19 March 2010, 57 – 60, VGSO.3000.0316.0179 @.0235 - .0238.

⁵¹⁵¹ Exhibit RC1191 Transcript of Detective Inspector Steven Smith in the committal of Mr Paul Dale and Collins, 19 March 2010, 24 – 31, VGSO.3000.0316.0179 @.0202 - .0209.

⁵¹⁵² Exhibit RC1191 Transcript of Detective Inspector Steven Smith in the committal of Mr Paul Dale and Collins, 19 March 2010, 79 – 80, VGSO.3000.0316.0179 @.0257 - .0258.

Hargreaves request in relation to Ms Gobbo's IMF. Mr O'Connell responded to whatever had been asked of him by Ms Bolkas in the following manner:⁵¹⁵³

Lucia,

We do not comment on the existence of files referred to by Tony Hargreaves as "Informer Management Files" and any questions related to them are not answered on the basis of public interest immunity. As you have indicated, Ron has never confirmed the existence of any file of this nature.

Are you able to contact Tony Hargreaves and ascertain exactly what type of material he is seeking and if he is relying on existing subpoena requests or if this is in addition to his subpoena. Given that the witness has had communication with police, in the course of her occupation, for many years, it may also be prudent to ask Tony for a time period.

Regards

Shane

3981. Ms Bolkas responded, copying in her instructing solicitor, Elms:⁵¹⁵⁴

Shane and Greg

Any conversations between F and police relevant to "any disclosures made by witness F in relation to Paul Dale and the Hodson murders" do come within the terms of the subpoena.

That is what the defence are entitled to.

Lucia

30 March 2010 – Magistrate Makes Orders in relation to Subpoenas

3982. On 30 March 2010, the committal Magistrate ordered that further subpoenas be served in relation to documents not considered to have been covered by earlier subpoenas.⁵¹⁵⁵

31 March 2010 – Sandy White Discussion with O'Connell

3983. It is submitted that the evidence demonstrates that, not content to accept the advice of Ms Bolkas a few days before, or the advice of Mr Maguire over six months before, Mr O'Connell was still intent on denying lawful disclosure if he possibly could.

3984. On 31 March 2010, Mr Sandy White rang Mr O'Connell in relation to Ms Gobbo's IMF, advising that the material was ready to handover to Petra for PII assessment. Mr O'Connell told Mr Sandy White that the material was not currently required as the defence had been directed to specify exactly what they wanted. Mr O'Connell indicated he wanted to wait to see what the

⁵¹⁵³ Exhibit RC1356 Email chain involving Shane O'Connell, Lucia Bolkas and Greg Elms, 29 March 2010, VGSO.5000.0062.0002.

⁵¹⁵⁴ Exhibit RC1356 Email chain involving Shane O'Connell, Lucia Bolkas and Greg Elms, 29 March 2010, VGSO.5000.0062.0002.

⁵¹⁵⁵ Exhibit RC0292 Mr Sandy White diary, 31 March 2010, VPL.2000.0001.0671 @.2316; Exhibit RC1045 Letter from Mr Tony Hargreaves to VGSO, 31 March 2010, VGSO.5000.0004.7058.

defence requested prior to any examination of the file being conducted. He thought it possible that the defence believed that Petra had compiled a source management file and they would request this. He said if that were the case, the defence would then be provided with records relating to her witness management.⁵¹⁵⁶

3985. Mr O'Connell said he could not recall the meeting with Mr Sandy White.⁵¹⁵⁷

3986. When the matters above were put to Mr Steven Smith he said he believed Mr O'Connell was wishing to comply with the specifics of subpoenas as they were at the time and be guided by the advice of counsel. He disagreed that Mr O'Connell was trying to 'get away with' not disclosing Ms Gobbo's IMF.⁵¹⁵⁸

31 March 2010 – The SDU Petra Document

3987. The Commission has had produced to it a document entitled '2958 SCR References to Paul Dale Petra Edit', with metadata bearing a date of 31 March 2010. This appears to be part of the material prepared by the SDU for Petra. It contains extracts of the ICRs where there is reference to Mr Dale, covering the period Ms Gobbo was known as human source 2958. It is 23 pages.⁵¹⁵⁹ An earlier version of this document was also produced, entitled '2958 References to Paul Dale SDU Raw', with metadata bearing a date of 19 March 2010. This document was 45 pages.⁵¹⁶⁰ A comparison of even the first page reveals that significant relevant information had been taken from the 'raw' version.

3988. The Commission has been unable to locate such a table relating to the period Ms Gobbo was known as human source 3838. Either this has not been located for production to the Commission, or Mr Sandy White was not intending to provide such a table to lawyers for assessment for PII during the Dale murder committal.

31 March 2010 – Letter from Hargreaves to VGSO

3989. On 31 March 2010, Mr Hargreaves enclosed a further witness summons and outlined categories of documents that the defence considered were covered by the earlier subpoena. Item 4 on the list stated:

The additional documents that were located by Mr O'Connell as a result of my conversation with Mr Gipp on 10 March 2010. On that occasion I asked Mr Gipp for the Informer Management File of Ms Gobbo to be viewed. Mr Gipp returned my call later that day and advised that without admitting that an Informer Management File existed, further documents had been identified. Mr Gipp stated that Mr O'Connell had indicated it would take approximately five days to obtain copies of the documents, at which time a claim for public

⁵¹⁵⁶ Exhibit RC0292 Mr Sandy White diary, 31 March 2010, VPL.2000.0001.0671 @.2316.

⁵¹⁵⁷ Transcript of Mr Shane O'Connell, 21 February 2020, 14812, TRN.2020.02.21.01.

⁵¹⁵⁸ Transcript of Detective Inspector Steven Smith, 13 February 2020, 13983, TRN.2020.02.13.01.

⁵¹⁵⁹ Exhibit RC1771 SDU Table of ICR references to Mr Paul Dale for Petra for HS 2958, 31 March 2010, VPL.2000.0001.9600.

⁵¹⁶⁰ Exhibit RC1771 SDU Table of ICR references to Mr Paul Dale for Petra for HS 2958, 31 March 2010, VPL.2000.0001.9600.

interest immunity would be considered. We have heard nothing further about those documents since that time.

3990. Mr Hargreaves noted that the new witness summons specifically excluded documents relevant to Ms Gobbo given she had been excused from giving evidence for at least three months and it seemed there was an abundance of time to issue a summons without delaying the recommencement of the committal hearing on 12 April 2010.⁵¹⁶¹
3991. Little did Mr Hargreaves know how much time he would need if he had discovered all the relevant material relating to Ms Gobbo.
3992. That afternoon, Mr Hargreaves' letter was sent to Mr Davey, copied to Mr O'Connell, with an indication he would call to discuss the matter.⁵¹⁶²

1 April 2010 – VGSO Response to Mr Hargreaves

3993. On 1 April 2010, the VGSO responded to Mr Hargreaves letter of the previous day, which advised that they were instructed that a large quantity of documents fell within the scope of the new subpoena and required examination by Mr Steven Smith to properly consider claims of PII. Mr Smith was overseas and not due to return until after 12 April 2010.
3994. The letter further advised in relation to the first subpoena that:

It is our instructions that all of the documents which fall within the subpoena have been produced except for the documents which you refer to under numbered item 4 of your letter. We are instructed that those documents are being sought for production as expeditiously as possible. Irrespective of any previous statement on time of production, we now advise you of our instructions in relation to these documents. It is unlikely that those documents will be produced before 12 April 2010.

Those documents are not held by Petra Taskforce and are being sourced. We are instructed that obtaining and vetting the documents for potential disclosure issues is a time consuming process resulting from the quantity of documents to be checked to establish whether they are relevant to the subpoena, the period of time over which the documents may have been created and consulting all of the personnel involved in the creation of the document or may otherwise have knowledge that goes to any disclosure issues.⁵¹⁶³

3995. Mr O'Connell said he could not recall whether he was involved in providing those instructions.⁵¹⁶⁴
3996. As is clear, the VGSO had been instructed that the documents were still being sourced. Mr O'Connell was the investigator liaising with the SDU and dealing with issue, not Mr Davey who had not been told Ms Gobbo was a human source.

⁵¹⁶¹ Exhibit RC1045 Letter from Mr Tony Hargreaves to VGSO, 31 March 2010, VGSO.5000.0004.7058.

⁵¹⁶² Exhibit RC1681 Email from Greg Elms to Cameron Davey, Shane O'Connell, Kyle Simpson and Lucia Bolkas with attached letter and summons, 31 March 2010, VPL.6077.0014.5522.

⁵¹⁶³ Exhibit RC1199 Letter from VGSO to My Tony Hargreaves, 1 April 2010, VGSO.5000.0004.7064.

⁵¹⁶⁴ Transcript of Mr Shane O'Connell, 21 February 2020, 14813-14814, TRN.2020.02.21.01.

3997. **On the evidence, it is open to the Commissioner to find that Mr O'Connell gave the instructions to Mr Sandy White referred to in paragraph [3994].**

12 April 2010 – Recommencement of Committal

3998. On 12 April 2010, the Committal of Messrs Dale and Collins recommenced. The defence indicated it would object to all PII arguments being made by Victoria Police. The Court made orders in relation to how the matter was to proceed, including that material be provided to the court with areas of PII highlighted to allow the Magistrate to view the material pending contested arguments. Legal argument in relation to material previously supplied was to be heard in the week commencing 23 August 2010, and material yet to be supplied from 29 November 2010. The calling of witnesses in the committal was set down to commence on 10 January 2011.⁵¹⁶⁵

19 April 2010 – Murder of Carl Williams

3999. On 19 April 2010, Carl Williams was murdered.

4000. By virtue of the insistence of the legal representatives of Mr Dale they had become cognisant of the existence of human source records related to Ms Gobbo which were relevant in the proceeding. It is submitted that the evidence demonstrates that the Petra Taskforce had concealed those records, despite the advice of Mr Maguire the previous year.

4001. It is submitted that it is likely that representatives of Mr Dale would have closely examined Ms Gobbo's relationship with police, and invariably she would have been asked questions that would have required her to admit that she was a human source, or objections would have been made to prevent the answering of such questions on the basis that it would not be in the public interest for that information to come to light.

4002. Unless, it was concluded by the Court, that the relationship between Ms Gobbo and Victoria Police was irrelevant to the issues in the proceeding, then it would have been necessary for the Chief Commissioner to seek representation to argue the question of PII, and have that issue ventilated in the appropriate manner.

4003. Regardless of whether the relationship between Ms Gobbo and Victoria Police was relevant of itself, there was information in the possession of the SDU, which would have been relevant to the question of a potential defence that may have been open to Mr Dale; that is was he entitled to believe that his conversation with Ms Gobbo on 7 December 2008 was confidential. In the possession of the SDU was a copy of notes that had been obtained by Mr Dale after he was arrested, which would invariably have given rise to a question of how they came to be in the possession of police. Further, the SDU had notes of discussions with Ms Gobbo in which she maintained that Mr Dale would approach her for free legal advice, and further that the SDU had suggested that any meeting that she had with Mr Dale, should occur

⁵¹⁶⁵ Exhibit RC1768 Petra Taskforce Update, 31 May 2010, VPL.0005.0012.2650.

during normal business hours. Such documents would likely have been required to be produced to Mr Dale's lawyers.

4004. There was at least the potential for the sorts of issues determined by Justice Ginnane to have been determined in 2010, rather than in 2018.

20 April 2010 – Establishment of Taskforce Driver

4005. By 20 April 2010, Taskforce Driver was established to investigate matters related to the murder of Carl Williams which were beyond the scope of the Homicide Squad investigation.⁵¹⁶⁶
4006. On 22 April 2010, Mr Smith sent suggestions as to its Terms of Reference to Deputy Commissioner Emmett Dunne which were forwarded to others, including Mr Cornelius:

Points in relation to the Terms of Reference are –

- *Administration of Justice*
- *Role of the courts, role of the magistrate and comments by him and delays*
- *TPA funding*
- *Conduct of defence*
- *Media leaks possibly by defence*
- *Media leaks possible by Dale*
- *Media leaks possibly by Witness F*
- *Defence obtaining information from PII documents allowing them to formulate subpoenas*
- *Role of media reporting in murder*⁵¹⁶⁷

4007. Mr Cornelius responded indicating:
- he was of the view that matters relating to the subversion of the administration of justice were most appropriately dealt with by the DPP, and they could refer those points to Mr McRae and ask that he canvas this with Mr Rapke
 - serious consideration should be given to raising the Magistrates' conduct with the Chief Magistrate, indicating he all but named Mr Williams to assembled media and the public in open court.⁵¹⁶⁸
4008. During his evidence Mr Cornelius was asked whether he ever became concerned that cases might have been affected because of the relationship between Victoria Police and Ms Gobbo. He indicated that he did become concerned. He linked this concern with the above email from Mr Steven Smith and said he had voiced his view that such matters involving the administration of justice would be raised with the DPP.⁵¹⁶⁹

⁵¹⁶⁶ Exhibit RC1739 Memorandum entitled Driver Taskforce by Sir Ken Jones, 20 April 2010, VPL.0100.0136.0020.

⁵¹⁶⁷ Exhibit RC1046 Email chain involving Steven (Steve) Smith, Emmett Dunne, Ken Jones, Jeffrey (Jeff) Pope, Douglas (Doug) Fryer and Luke Cornelius, 22 April 2010, VPL.0005.0012.2803.

⁵¹⁶⁸ RC1046 Email chain involving Steven (Steve) Smith, Emmett Dunne, Ken Jones, Jeffrey (Jeff) Pope, Douglas (Doug) Fryer and Luke Cornelius, 22 April 2010, VPL.0005.0012.2803.

⁵¹⁶⁹ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12347-12348, TRN.2020.01.24.01.

4009. It was suggested when Mr Cornelius was taken to the email chain that issues related to the administration of justice did not appear to have any relationship with concerns about Ms Gobbo's involvement and the effect on cases, rather it was related to what had occurred with Mr Carl Williams. Mr Cornelius said he was referring to two issues, one related to the conduct of the Magistrate and the other related to his awareness of Ms Gobbo's assistance to the Briars and Petra Taskforces. When asked why he would suddenly understand that Ms Gobbo's involvement with the Briars Taskforce related to a perversion of the administration of justice, Mr Cornelius said he had made an assumption as to what Mr Smith was referring. Mr Cornelius was asked what his concerns were about those cases. He then indicated he did not have any concerns. Mr Cornelius said he only had concern when revelations about 'Lawyer X' were made in the media. He said it was only then he became aware Ms Gobbo's conduct was more extensive than he had previously understood.⁵¹⁷⁰
4010. Relevant submissions concerning Mr Cornelius's knowledge are contained in Chapter 12 and paragraphs 3818 to 3820 above.

Early May – Gobbo Seeking to Assist Police in Williams Murder

4011. In early May 2010, Ms Gobbo contacted Detective Sergeant Stuart Bailey of the Homicide Squad on a number of occasions, indicating that she was attempting to meet and obtain information from Mr Raymond Sassine about the Williams murder. Mr Bailey had concerns for Ms Gobbo's safety given recent suggestions she was an informer and had warned Ms Gobbo not to do this. He contacted Mr Steven Smith requesting he also warn her. Mr Smith informed Messrs Cornelius and Dunne that he intended to contact Ms Gobbo's lawyers and set out the risks associated with her meeting Mr Sassine, and their strong advice that it should cease.⁵¹⁷¹

25 May 2010 – Jones Review of Petra Structure and Decision Making

4012. On 25 May 2010, Sir Ken sent an email to Messrs Cornelius, Moloney, Pope, Dunne and Fryer in relation to the Petra Taskforce. He referred to the meeting scheduled the following day and announced he was going to adjust the governance structure for Driver, Briars and Petra.
4013. In coming to this decision Sir Ken referred to issues with the way they had been operating and the documentation of discussions and decisions. He said he had the impression that the team leaders would drive operations and brief up to the relevant committee. He noted that 'getting at any supporting documentation' in relation to what decisions had been made by the committee was difficult. He noted that records and minutes would be kept from that point, which would commence with a standing agenda.⁵¹⁷²

⁵¹⁷⁰ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12541-12545, TRN.2020.01.24.01.

⁵¹⁷¹ Exhibit RC1696 Email from Steven (Steve) Smith to Luke Cornelius and Emmett Dunne, 6 May 2010, VPL.0005.0012.2747.

⁵¹⁷² Exhibit RC 1696 Email from Ken Jones to Luke Cornelius, Dannye Moloney, Jeffrey (Jeff) Pope, Emmett Dunne and Douglas (Doug) Fryer, 25 May 2010, VPL.0005.0012.2676.

31 May 2010 – Petra Taskforce update

4014. On 31 May 2010 the Petra Taskforce written update advised, amongst other matters that the DPP would formally withdraw the murder charges against Messrs Dale and Collins and that it was expected that investigators would deliver an Inquest Brief to the Coroner in the matter in the near future. The update also advised of a plan to conduct further investigation into matters involving Ms Gobbo:

Investigators intend to further investigate the source of the leaked Information Reports (IR 44) from the Hodson Informer Management File, which were provided to Tony Mokbel in early 2004 and faxed to criminal associates in Queensland.

Investigators suspect that [Ms Gobbo] acted as a conduit, receiving the IRs from Dale and providing them to Mr Mokbel. This suspicion is based on:

- Dale was in company with [Ms Gobbo] on 27 February 2004, speaking with Williams by phone and eager to catch up with Williams;*
- The leaked IRs were faxed by Mr Mokbel to Queensland the following day on 28 February 2004;*
- AFP telephone intercepts of Mokbel at that time showed contact between Gobbo and Mokbel and conversation regarding a 'mutual friend' named Pauline (believed to be Paul Dale and documents [Ms Gobbo] wanted Mr Mokbel to see).*

Investigators have requested the intercepted calls from the AFP.

It is prosed (sic) to have the [REDACTED] of F, Mokbel and possible (sic) others relating to this issue.

The relevance of this avenue of inquiry is to establish witness F's involvement in the release of the information reports and to assist in the confirmation of Dale's involvement and further strengthen his motive for the Hodson murders.

4015. The assertion that the AFP had telephone intercepts in which Ms Gobbo, speaking to Mr Mokbel made reference to a mutual friend named Pauline was later made again by the Chief Commissioner of Police in its submissions to the Coroner in the Inquest into the Deaths of Terrence Hodson and Christine Hodson. The inquest heard evidence between May and November 2014, and during the hearing there was a hearsay assertion that such a conversation had been recorded by the AFP, and the Chief Commissioner's submission was based upon that assertion.⁵¹⁷³
4016. The Coroner asked Mr Buick, who was the police officer responsible for the coronial investigation to produce any evidence to support the existence of the conversation, and having conducted inquiries he made a statement in which he said that he could find no such evidence and the submission by the Chief Commissioner of Police was withdrawn.

⁵¹⁷³ Exhibit RC1835 Coroners Findings into Death with Inquest, 31 July 2015, 36-37, VGSO.5000.0012.0001 @.0036 - .0037.

4017. Mr Buick confirmed in his evidence to the Commission that it was still that case that no such evidence existed.⁵¹⁷⁴

7 June 2010 – Murder Charges Dropped

4018. On 7 June 2010, the charges of murder against Messrs Dale and Collins were formally withdrawn at the Melbourne Magistrates' Court.

⁵¹⁷⁴ Transcript of Inspector Boris Buick, 11 November 2019, 8985-8986, TRN.2019.11.11.01.

CHAPTER 19 – 2010 – THE CIVIL LITIGATION

Introduction

4019. On 29 April 2010, Ms Gobbo filed proceedings in the Supreme Court naming the State of Victoria, Mr Overland and former Chief Commissioner Christine Nixon as Defendants, alleging causes of action in contract, estoppel, breach of fiduciary duty and negligence.⁵¹⁷⁵ She claimed that the conduct of Victoria Police had detrimentally affected her health and ruined her career causing her economic loss, in the nature of loss of earnings and capacity to earn income as a barrister.⁵¹⁷⁶
4020. Significantly, Ms Gobbo's claim related only to the police engagement with her as a witness for the Petra Taskforce, not in relation to her engagement with Victoria Police as a human source. Importantly, the pleading was silent as to the true nature of her role over the preceding years and focused only on her use in the Dale prosecution as a witness.
4021. In the course of the period that followed, a number of people within Victoria Police became aware or gained further knowledge about Ms Gobbo's use as a human source and the issues associated with it.

Early May 2010 – Overland Requests Chronology of SDU Dealings

4022. Inspector John O'Connor became the officer in charge of the SDU on 3 May 2010, shortly after Ms Gobbo brought a civil claim against Victoria Police.⁵¹⁷⁷
4023. On 4 May 2010, his line superior, then Superintendent Paul Sheridan forwarded Mr O'Connor an email from Mr Overland, instructing that the SDU compile a chronology setting out the SDU's dealings with Ms Gobbo up to the point that the Petra Taskforce took over her management. Mr O'Connor understood at the time of this request that Ms Gobbo was still being managed by the Petra Taskforce.⁵¹⁷⁸
4024. Mr O'Connor spoke with Messrs Sandy White and Richards about the request. A chronology already existed in the form of the SML. Messrs Sandy White and then Mr Richards indicated concern about the risks to Ms Gobbo and the SDU should the SML be disclosed and wanted to limit the number of people who knew of Ms Gobbo's role as a human source. Mr O'Connor indicated that he would read the SML and discuss the matter with Mr Sheridan.⁵¹⁷⁹

⁵¹⁷⁵ Exhibit RC0950 Statement of Claim, Nicola Gobbo v State of Victoria & Ors, 29 April 2010, VGSO.2000.0142.0498.

⁵¹⁷⁶ Exhibit RC1085, Letter of Advice from Victorian Government Solicitor's Office to Superintendent Lardner, 21 May 2010, 21 May 2010, 4 [12]-[13], VPL.0005.0010.2514 @.2517; Exhibit RC0950 Statement of Claim, Nicola Gobbo v State of Victoria & Ors, 29 April 2010, VGSO.2000.0142.0498.

⁵¹⁷⁷ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 2 [16], VPL.0014.0077.0001 @.0002.

⁵¹⁷⁸ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 2 [17], VPL.0014.0077.0001 @.0002.

⁵¹⁷⁹ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 2-3, [17]-[20], VPL.0014.0077.0001 @.0002-.0003.

4025. Mr O'Connor reviewed the document over the next fortnight. He then understood that the SML detailed extensive contact over a long period between Ms Gobbo and the SDU, and that because of the high-level criminals she had provided information about, there would be a serious risk to her safety should her role as a human source be disclosed.⁵¹⁸⁰

Early May 2010 – Involvement of McRae and Lardner

4026. It is submitted that on the basis of the evidence set out in the preceding Chapter of these submissions, by the time Ms Gobbo commenced the civil litigation in late May 2010, Victoria Police's principal lawyer, Director of Legal Services, Mr Findlay McRae was aware of, or should have been aware of, at least the following matters:

- Ms Gobbo's status as a witness for the Petra Taskforce and potentially the Briars Taskforce
- Ms Gobbo's significant assistance to Victoria Police between 2005 and 2009, which related to the prosecution of organised crime figures and the suggestion of her assisting the Purana Taskforce
- concerns by Ms Gobbo that disclosure of her prior assistance to Victoria Police would, amongst other matters, jeopardise the Dale prosecution and cause issues for Victoria Police.

4027. Superintendent Peter Lardner was in charge of Civil Litigation in the LSD of Victoria Police. He reported to Mr McRae. He was not legally qualified.⁵¹⁸¹

4028. Shortly after the writ was served, the VGSO was engaged to act for Victoria Police. They had previously been engaged to act in relation to witness security issues as part of the Petra Taskforce, although Mr Lardner was not aware of the specifics of that engagement.⁵¹⁸²

4029. On 5 May 2010, Mr Lardner spoke with Mr McRae about management and resourcing of the litigation. It was agreed that Detective Senior Sergeant Andrew Bona would be made available to assist, and that a steering committee would be formed comprising Mr McRae, Stuart McKenzie (also of the LSD) and Mr Lardner. This would ensure transparency and the ability for Mr McRae to remove himself should a conflict of interest occur. It was considered that a conflict could potentially arise given Mr McRae's prior involvement in witness security matters in relation to Petra.⁵¹⁸³

4030. On 13 May 2010, a meeting took place involving Messrs Lardner and Bona with Superintendent Allway of the WSU, Inspector Smith of the Briars Taskforce and Mr Ryan of the VGSO. During this meeting there was reference to the fact that Ms Gobbo had been registered as a human source prior to January 2009 and that Mr Lardner should speak with Mr Sandy

⁵¹⁸⁰ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 2-3, [17]-[20], VPL.0014.0077.0001 @.0002-.0003.

⁵¹⁸¹ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 2 [8], VPL.0014.0102.0001 @.0002.

⁵¹⁸² Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 2 [11], VPL.0014.0102.0001 @.0002.

⁵¹⁸³ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 2-3 [13], VPL.0014.0102.0001 @.0002-.0003.

White in order to understand of the background of Ms Gobbo's involvement with Victoria Police.⁵¹⁸⁴

4031. Later that day, Mr Lardner attended a steering committee meeting with Messrs McRae, McKenzie and Bona. Mr Lardner's diary entry indicates that Ms Gobbo's earlier registration as a human source, and the need to speak with Mr Sandy White was raised.⁵¹⁸⁵

21 May 2010 – VGSO Advice

4032. On 20 May 2010, Mr Lardner had attended a conference with Mr David Ryan and Ms Monika Pekevka of the VGSO and Mr Michael Wheelahan QC and Dr Michael Rush of counsel. The conference was a preliminary one, in which Ms Gobbo's involvement in at least three separate investigation areas (Petra, Briars and Purana) was discussed. It was agreed at the meeting that counsel would need to be briefed by the relevant investigators in order to understand the history of the matter, that discussions between Ms Gobbo and members of the Petra Taskforce needed to be transcribed and documents relevant to the defence needed to be sourced and collated.⁵¹⁸⁶
4033. A letter of advice dated 21 May 2010 was provided by the VGSO, addressed to Mr Lardner and this made it plain that Ms Gobbo had provided assistance other than in relation to Mr Dale and may still be doing so. It included the following:⁵¹⁸⁷

Exposure of sensitive information

18. A trial in this case will involve scrutiny of the procedures adopted by Victoria Police in dealing with informers and in obtaining the cooperation of witnesses in criminal proceedings and will involve an examination of the limitations of the Program. Clearly, this is not desirable from the perspective of Victoria Police but it may be unavoidable if the plaintiff is not prepared to be reasonable in negotiating to resolve the proceedings.

19. Another issue in relation to the Defence of the defendants is the history of the plaintiff's relationship with Victoria Police. We understand that the plaintiff has provided information to Victoria Police in matters other than the Dale prosecution and that she may still be providing information to Victoria Police. Clearly, the plaintiff's status as a police informer is highly confidential and sensitive and its disclosure is likely to further increase the risk to her safety.

20. The plaintiff claims that she has suffered injury as a result of being referred to as an "informer" by counsel for the Chief Commissioner in the Dale committal hearing. In order to properly respond to this claim, the defendants need to consider whether it is

⁵¹⁸⁴ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 3 [14]-[16], VPL.0014.0102.0001 @.0003. See also Chapter 18 of these Submissions.

⁵¹⁸⁵ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 3 [14]-[16], VPL.0014.0102.0001 @.0003; Un-tendered Detective Superintendent Peter Lardner diary, 13 May 2010, 5-7 VPL.0100.0058.0649 @ 0653-55.

⁵¹⁸⁶ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 3-4 [17] VPL.0014.0102.0001 @.0003-.0004.

⁵¹⁸⁷ Exhibit RC1085 Letter of Advice from Victorian Government Solicitor's Office to Superintendent Lardner, 21 May 2010, VPL.0005.0010.2514.

appropriate to plead in their Defence that the plaintiff was and is in fact a police informer. If it were to be pleaded, a suppression order would need to be obtained in relation to the defence of the Defendants. However, it may be that a suppression order does not provide sufficient protection in relation to the potential disclosure of this information.

Confidential Briefing for Counsel

4034. Counsel requested that Victoria Police arrange a confidential briefing on the extent of Ms Gobbo's relationship with Victoria Police, and how it may impact the way the defence is drafted. Counsel also wanted to ascertain whether information provided to Victoria Police in matters other than the Dale prosecution may be protected by legal professional privilege.
4035. Mr McRae did not recall attending a confidential briefing regarding the 'complete history of the matter' and considered that since Mr Lardner had carriage of the file, it was his role to arrange and attend any such briefing.⁵¹⁸⁸ Mr McRae said that following receipt of the advice from the VGSO, he was awaiting counsel's advice regarding the issue of Ms Gobbo having provided information to Victoria Police that may have been subject to LPP.⁵¹⁸⁹ He said he did not consider the possibility that this may have had significant implications upon Victoria Police and the matters that it had prosecuted in the past.⁵¹⁹⁰ Mr McRae said he knew that Mr Lardner was contacting the relevant areas to obtain the source material to provide to counsel for consideration, but at that stage it had not occurred to Mr McRae that there was a risk that Ms Gobbo had given information about her own clients.⁵¹⁹¹

21 May 2010 – Lardner Seeks Information on Purana, Petra and Briars

4036. The LSD had quickly become aware of Ms Gobbo's involvement with the Purana, Petra and Briars Taskforces.
4037. On 21 May 2010, Mr Lardner emailed Mr Moloney indicating that he required someone who was across all three investigation areas that concerned Ms Gobbo to provide an overview to counsel for Victoria Police. In making the request, Mr Lardner said that Mr Cornelius had told him that he was 'deliberately not included in the knowledge of all areas' but that Mr Moloney would be.⁵¹⁹²
4038. Mr Moloney responded to the email, copying in Mr Cornelius, who would have seen the comment above. He indicated that the Petra and Briars Taskforces were oversighted by a Management Committee chaired by Mr Cornelius, as the investigations were placed under the ESD, and that he (Mr Moloney), was on the committees, as was the OPI. He said Purana had

⁵¹⁸⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.17], VPL.0014.0089.0003 @.0025.

⁵¹⁸⁹ Transcript of Mr Findlay McRae, 31 January 2020, 12718, TRN.2010.01.31.01.

⁵¹⁹⁰ Transcript of Mr Findlay McRae, 31 January 2020, 12718, TRN.2010.01.31.01.

⁵¹⁹¹ Transcript of Mr Findlay McRae, 31 January 2020, 12721, TRN.2010.01.31.01.

⁵¹⁹² Exhibit RC1666 Email chain involving Peter Larder, Danye Moloney, Luke Cornelius, Findlay McRae, Anthony (Tony) Biggin, 20 May 2010 to 22 May 2010, 1-3, VPL.6051.0021.0593.

dealings with Ms Gobbo under the Crime Department, and that Mr Cornelius was not aware of those details.⁵¹⁹³

4039. Mr Lardner responded explaining that he wanted to understand who in the organisation would be across all the limbs of her involvement so that they could consider the impact of all possible areas of her involvement when making decisions about the writ, querying whether Mr Overland or Deputy Commissioner Jones might be the only ones who were so positioned. Mr McRae was copied on this email, which included the train above.⁵¹⁹⁴
4040. Mr Moloney responded the following day, indicating that once Mr Lardner had 'met with the three areas', he should meet with he and Mr Cornelius 'to address the wider issue and get an insight into the history.' It was also suggested that he meet with then Superintendent Tony Biggin in relation to the covert side of the matter. Mr Moloney suggested that Mr Lardner ring him so he could expand.⁵¹⁹⁵ Mr Biggin was copied into the email, which he forwarded to Superintendent Paul Sheridan.⁵¹⁹⁶
4041. Mr Lardner then emailed Mr Moloney indicating he would be attending the Crime Department for a meeting to discuss Ms Gobbo with Messrs Pope and Sandy White on 26 May 2010 and asked whether he might be available to talk then. Mr Moloney told him to check in, otherwise another time would be arranged.⁵¹⁹⁷
4042. Mr Cornelius said that it was evident to him, from Mr Lardner's request, that he was asking for information that was beyond his knowledge so he responded indicating that clearly a decision had been made that he would not be briefed about those matters and that Mr Lardner needed to speak to Mr Moloney about Purana Taskforce matters.⁵¹⁹⁸ Mr Cornelius said the fact that the communications suggested that a defence barrister had been assisting Victoria Police in relation to matters where she was representing people did not ring alarm bells, nor was he concerned that someone had made a decision that he did not need to know about the Purana Taskforce dealings.⁵¹⁹⁹
4043. This was again to be contrasted with Mr Cornelius' evidence to the Commission as to what he would have done had he found out about Ms Gobbo's use by the Purana Taskforce at an earlier time, such as in 2006. In that case he said he would have found it extraordinary and known the implications.⁵²⁰⁰ He indicated in his evidence that he would have pulled at

⁵¹⁹³ Exhibit RC1666 Email chain involving Peter Larder, Dannye Moloney, Luke Cornelius, Findlay McRae, Anthony (Tony) Biggin, 20 May 2010 to 22 May 2010, 1-3, VPL.6051.0021.0593.

⁵¹⁹⁴ Exhibit RC1666 Email chain involving Peter Larder, Dannye Moloney, Luke Cornelius, Findlay McRae, Anthony (Tony) Biggin, 20 May 2010 to 22 May 2010, 1-3, VPL.6051.0021.0593.

⁵¹⁹⁵ Exhibit RC1666 Email chain involving Peter Larder, Dannye Moloney, Luke Cornelius, Findlay McRae, Anthony (Tony) Biggin, 20 May 2010 to 22 May 2010, 1-3, VPL.6051.0021.0593.

⁵¹⁹⁶ Exhibit RC1048 Email chain involving Peter Larder, Dannye Moloney, Luke Cornelius, Findlay McRae, Anthony (Tony) Biggin, Paul Sheridan, 20 May 2010 to 24 May 2010, 1-2, VPL.6029.0031.1932.

⁵¹⁹⁷ Exhibit RC1666 Email chain involving Peter Larder, Dannye Moloney, Luke Cornelius, Findlay McRae, Anthony (Tony) Biggin, 20 May 2010 to 22 May 2010, 1-3, VPL.6051.0021.0593.

⁵¹⁹⁸ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12456, TRN.2020.01.29.01.

⁵¹⁹⁹ Transcript of Assistant Commissioner Luke Cornelius, 29 January 2020, 12547, TRN.2020.01.29.01.

⁵²⁰⁰ Transcript of Assistant Commissioner Luke Cornelius, 12 December 2019, 11055, TRN.2019.12.12.01.

the 'loose thread' until all the issues around it were understood and he was in a position to make a lawful and ethical decision.⁵²⁰¹ It is submitted that it was abundantly clear to Mr Cornelius by this stage that Ms Gobbo had been used as a human source by Purana. It is submitted that he seemingly remained content, that as the Assistant Commissioner of the Ethical Standards Department, he did not need to ensure that her use was lawful and ethical.

20 & 21 May 2010 – Public Interest Immunity Issues Discussed

4044. On 20 May 2010, Mr O'Connor emailed Messrs Sandy White and Richards. He requested a meeting with he and Mr Sheridan the following week, indicating that they needed to discuss public interest immunity around Ms Gobbo. He said that he and Mr Sheridan had read the SML and that Command required a response to the issue by the end of the month. Mr O'Connor said that he assumed that one or both of Messrs Sandy White and Richards lectured on public interest immunity and asked that notes be provided prior to the meeting, or that they be in a position to discuss the matters at the meeting.⁵²⁰²
4045. On 21 May 2010, Mr O'Connor met with Assistant Commissioner Jeff Pope and Mr Sheridan and discussed Ms Gobbo's SML. They determined that a meeting should be held with Messrs Sandy White and Richards to discuss public interest immunity. Mr Pope indicated that he may read the SML over the weekend.⁵²⁰³ That night Mr O'Connor emailed Mr Pope advising of the details of Ms Gobbo's controllers and handlers at the SDU.⁵²⁰⁴
4046. On 24 May 2010, Mr Sandy White met with Messrs Sheridan and O'Connor in relation to Ms Gobbo's civil claim. Mr Sandy White recorded that both had read the SML and agreed that the document should not be produced in court. They discussed claiming public interest immunity to prevent such disclosure. It was considered probable that Ms Gobbo would waive 'informer privilege' so they would have to claim the protection of methodology which was not considered by them sufficient for a successful claim. Mr Sandy White was told that Mr Overland had directed that the SML be handed to Mr McRae.⁵²⁰⁵
4047. What was being considered was a means by which the SDU's management and handling of Ms Gobbo could be suppressed from exposure when the chief basis of informer immunity was not available, that is where the informer herself was prepared to be revealed. In effect, Ms Gobbo was calling the bluff of Victoria Police; to defend the claim they would have to expose her, but it would be at their own peril if they did. They would expose themselves to scrutiny by the OPI, they would put in jeopardy convictions they had obtained and prosecutions that were outstanding.

⁵²⁰¹ Transcript of Assistant Commissioner Luke Cornelius, 24 January 2020, 12369, TRN.2020.01.24.01.

⁵²⁰² Exhibit RC0600 Email chain involving John O'Connor, Mr Sandy White, Mr Richards, 20 May 2010 to 21 May 2010, VPL.6078.0045.4143.

⁵²⁰³ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 2-3, [17]-[20], VPL.0014.0077.0001 @.0002-.0003.

⁵²⁰⁴ Exhibit RC1666 Email chain involving John O'Connor, Peter Lardner, Jeffrey (Jeff) Pope, 21 May 2010 to 27 May 2010, VPL.6078.0036.2306.

⁵²⁰⁵ Exhibit RC0305 Mr Sandy White diary, 24 May 2010, 1120, RCMPI.0092.0001.0001 @.2328.

4048. On 26 May 2010, Mr O'Connor spoke with Mr Sheridan about handing over the SML to the LSD to assist with defending Ms Gobbo's civil claim.⁵²⁰⁶

27 May 2010 – Provision of SML to Legal Services

4049. On 27 May 2010, Mr O'Connor emailed Messrs McRae and Lardner and Bona, copying in Mr Sheridan. The subject of the email was 'Highly Protected Document re Witness F', referring to Ms Gobbo's SML. The email indicated that they had the only copy of SML, and further that:⁵²⁰⁷

- the SML was comprehensive and gave real insight into the use of Ms Gobbo as a human source
- he was happy to explain abbreviations and initials if clarification was required as to the identity of persons mentioned in it, both in police circles and criminals who had been targeted
- the document contained significant detail as to how several high-profile criminal networks had been brought to justice over a three to four-year period, using the intelligence of Ms Gobbo before she became a witness
- once they had read the SML they would realise the position Ms Gobbo would be in should members of those criminal networks 'join the dots'.

4050. Mr McRae acknowledged receipt of the email, and the email train was forwarded to Messrs Sandy White and Richards.⁵²⁰⁸

4051. Later that morning, Mr O'Connor met with Messrs McRae, Lardner and Bona. Mr O'Connor was advised of the identity of counsel briefed by Victoria Police for the civil litigation. They discussed the sensitive nature of the SML and it was agreed that Messrs McRae, Lardner and Bona would read the document and a further meeting would occur in the second week of June 2011.⁵²⁰⁹

4052. Mr Lardner stated to the Commission that he believed the hard copy document was provided to Mr Bona and securely stored. He said he did not recall Mr McRae reviewing the document.⁵²¹⁰

4053. That afternoon, Mr O'Connor emailed Messrs McRae, Lardner and Bona telling them they had been included on the list of people who were aware of 'Witness F/HS3838' and her role with the SDU prior to becoming a witness. The following day, Mr Sandy White, who had been copied into the email, responded that Ms Gobbo's pseudonyms should not be linked in future emails.⁵²¹¹

⁵²⁰⁶ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 3, [24], VPL.0014.0077.0001 @.0003.

⁵²⁰⁷ Exhibit RC0354 Email from John O'Connor to Findlay McRae, Peter Lardner, Paul Sheridan, 27 May 2010, VPL.0005.0013.1182.

⁵²⁰⁸ Exhibit RC0354 Email chain involving Findlay McRae, Peter Lardner, Paul Sheridan, John O'Connor, Mr Sandy White, Mr Richards, 27 May 2010, VPL.6025.0008.5082.

⁵²⁰⁹ Exhibit RC0808 Superintendent John O'Connor diary, 27 May 2011, 5, VPL.0005.0025.1583, @.1587

⁵²¹⁰ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 2-3 [13], VPL.0014.0102.0001 @.0002-.0003.

⁵²¹¹ Exhibit RC0305 Mr Sandy White diary, 28 May 2010, 1125, RCMP.0092.0001.0001 @.2333.

4054. Also, on 27 May 2010, Mr O'Connor was advised by Mr Pope that at a meeting involving then Deputy Commissioner Ken Jones, the request for a permanent inspector position at the SDU had been approved.⁵²¹²

31 May 2010 – LSD Seeks Representatives from Purana, Petra and Briars

4055. On 31 May 2010, Mr Sandy White was advised by Mr Kelly that he had been asked by then Inspector Mick Hughes about Ms Gobbo's involvement with the Purana Taskforce. Mr Kelly said he told Mr Hughes that Ms Gobbo had represented a number of people who made statements, such as Messrs Thomas and [REDACTED]. Mr Kelly said that Mr Hughes had been asked to attend a meeting with the LSD in relation to Ms Gobbo's civil claim and to provide a briefing about her assistance. Representatives of the Briars and Petra Taskforces had been asked to do likewise.⁵²¹³

4056. Mr Sandy White then met with Mr O'Connor. He requested that Mr O'Connor contact the LSD and stress that most of the members of the Purana, Petra and Briars Taskforces did not know of Ms Gobbo's involvement as a human source prior to her becoming a witness. He requested that the LSD be told not to reveal Ms Gobbo's status.⁵²¹⁴ Mr O'Connor spoke with Mr Lardner at the LSD as requested.⁵²¹⁵

4057. Mr Sandy White then received a call from Mr Hughes who asked about Ms Gobbo's involvement with Purana. Mr Sandy White told Mr Hughes he was best not knowing.⁵²¹⁶

1 June 2010 – Briefing Counsel

4058. On 1 June 2010, Messrs McRae and Lardner and then Superintendent Steve Gleeson met with Mr David Ryan, Mr Stephen Lee (VGSO) and Mr John Cain (then Victorian Government Solicitor) in relation to Ms Gobbo's litigation.⁵²¹⁷

4059. Later that day, on 1 June 2010, there was a case conference with Ms Orr and Messrs Rush and Wheelahan of counsel, Mr Ryan and Ms Monika Pekevska from the VGSO and Messrs Lardner and Bona from Victoria Police.⁵²¹⁸ Mr Smith briefed the attendees regarding the Petra Taskforce, Mr Hughes briefed the attendees regarding Purana Taskforce and Mr Waddell briefed the attendees regarding the Briars Taskforce.⁵²¹⁹ Messrs Lardner and

⁵²¹² Exhibit RC1670 Email chain involving Steven Cooper, Raelene Haines, Jeffrey (Jeff) Pope, John O'Connor, Brian Horan, Paul Sheridan, 27 May 2010, VPL.6027.0023.0498.

⁵²¹⁴ Exhibit RC0305 Sandy White diary, 31 May 2010, 1128, RCMP.0092.0001.0001 @.2336.

⁵²¹⁵ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 4, [25], VPL.0014.0077.0001 @.0004.

⁵²¹⁶ Exhibit RC0305 Sandy White diary, 31 May 2010, 9-10, RCMP.0092.0001.0001 @.2336-7.

⁵²¹⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.20], VPL.0014.0089.0003 @.0025.

⁵²¹⁸ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 5 [25], VPL.0014.0102.0001 @.0005; Exhibit RC1554 Detective Superintendent Peter Lardner diary, 1 June 2010, 16, VPL.0005.0013.0968 @.0983.

⁵²¹⁹ Exhibit RC1554 Detective Superintendent Peter Lardner diary, 1 June 2010, 16, VPL.0005.0013.0968 @.0983.

Bona facilitated these briefings at the offices of the LSD. Mr Lardner said he stepped in and out of the conferences while he attended to other matters.⁵²²⁰

3 June 2010 – The Whiteboard Meeting

4060. On 3 June 2010, Messrs McRae and Lardner met with Messrs Overland and Jones to discuss Ms Gobbo's civil litigation.⁵²²¹ Mr McRae presented an outline of the claim and the strategy for dealing with the claim on a whiteboard with Mr Lardner.⁵²²²

4061. Mr McRae included three columns on the whiteboard; 'cause of action', 'issues' and 'next steps'. The notes regarding the 'issues' and 'next steps' included the following:⁵²²³

- *Issues*
 - *Damages – 250k*
 - *Pre-existing injury – stroke 2004*
 - *Aggravation*
 - *Alleged conduct – commences 5 March 2008 and does not include Human Source registration 2005 to 2008*
 - *Risks – discovery, legal professional privilege, safety*
 - *Mitigation – defence refers only to Petra and pleading*
 - *Other investigations – Witness role*
 - *Options*
 - *Defend – defence to include 2005-2008 = suppressed*
 - *Public Interest Immunity and suppression issues*
 - *Witness Management Standards*
 - *OPI review*
 - *Witsec*
 - *Other witnesses*
 - *Human sources*
- *Next steps*
 - *Letter sent requesting extension of time for defence*
 - *Due 9/6/10*
 - *Proposed 1/8/10*
 - *Transcription*
 - *225 hours of meetings = assess representations made*
 - *Directions Hearing*
 - *18 June 2010*
 - *Subpoenas – health record, Financial records, Timing of defence*
 - *Timetabling*

⁵²²⁰ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 5 [25], VPL.0014.0102.0001 @.0005.

⁵²²¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.21], VPL.0014.0089.0003 @.0025.

⁵²²² Exhibit RC0912 Print out of whiteboard presentation from meeting, 3 June 2010, 14, VPL.0005.0195.0953 @.0966; Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.21], VPL.0014.0089.0003 @.0025.

⁵²²³ Exhibit RC0912 Print out of whiteboard presentation from meeting, 3 June 2010, 14, VPL.0005.0195.0953 @.0966.

- Governance
 - Instructions Doug Fryer
 - Retainer - continuance

4062. The matters outlined on the whiteboard include issues raised in the VGSO's letter of 21 May 2010, including for example, the option of disclosing Ms Gobbo's status as an informer in the defence and obtaining a suppression order.
4063. Apparent from the whiteboard was:
- knowledge of Ms Gobbo's registration from 2005
 - awareness of the many hours of recordings of conversations between Ms Gobbo and her handlers, which is a significant amount more than the 48 hours of recordings raised at Mr Dale's committal hearing
 - clear concern about legal professional privilege, discovery, Ms Gobbo's role in other investigations and review by the OPI.
4064. Mr Overland gave evidence to the Commission that he thought it might be 'unethical' and 'not consistent with model litigant principles' to run a defence that effectively used the fact that Ms Gobbo had worked as a human source against her in her civil proceedings.⁵²²⁴
4065. Mr McRae said that he was prepared to run the matter and 'deal with whatever flowed from it'.⁵²²⁵ He also stated that he had no concerns about the then OPI or other oversight bodies finding out about the litigation.⁵²²⁶ He said that Mr Overland wanted to defend the proceeding and that there was no pressure to settle the case.⁵²²⁷
4066. On 9 June 2010, a file note made by Mr Lee of a meeting which occurred that day suggests that Messrs Lardner, Cain, Gleeson, Lee and Ryan were attendees. The matters apparently discussed were as follows:⁵²²⁸

Management of docs
Counsel's PA
Portable hard drive
Safe can be stolen
Outsources database
Most significant informer in Aus legal history
Significant LPP issues
6 stand alone laptops, highly encrypted
Memory sticks also encrypted
If go missing, cannot be accessed
250 hours of conversations
Ringtail must stand alone
Security issues vital

4067. Mr McRae, whilst not present at this meeting, gave evidence to the Commission that at this stage he was aware that Ms Gobbo was an

⁵²²⁴ Transcript of Mr Simon Overland, 20 December 2019, 11897 -9, TRN.2019.12.20.01.

⁵²²⁵ Transcript of Mr Findlay McRae, 31 January 2020, 12736, TRN.2010.01.31.01.

⁵²²⁶ Transcript of Mr Findlay McRae, 31 January 2020, 12736, TRN.2010.01.31.01.

⁵²²⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.21], VPL.0014.0089.0003 @.0025.

⁵²²⁸ Exhibit RC1039 File note of Mr Stephen Lee, 9 June 2010, VGSO.2000.0131.0405.

extraordinarily significant informer.⁵²²⁹ Mr McRae said that he met with Mr Lardner in preparation for the meeting and considered that he would have discussed the LPP issues with Mr Lee.⁵²³⁰

4068. Mr Cain was shown this file note when preparing his statement and he indicated that he had no recollection of attending a meeting in which the matters recorded in the file note were discussed. He states that he was not aware that Ms Gobbo was a human source until he became aware of the contents of the Kellam Report, at which point he was astounded. He was not handling the file, as it was being conducted by two very experienced solicitors within the VGSO, Assistant VGSO Mr Stephen Lee and Managing Principal solicitor in the Litigation Branch, Mr David Ryan.⁵²³¹ He would have been confident that they were capable to conduct the file without his oversight. Whilst the file note suggests that Mr Cain may have been at the meeting at some point, in view of Mr Cain's statement, and his recollection of becoming aware of Ms Gobbo's role as a human source at a later stage, it is submitted that it is not open to conclude that he was present when the matters set out in the note were discussed.

21 June 2010 – Briefing regarding Gobbo's Status

4069. On 21 June 2010, Messrs McRae, Moloney, Cornelius and Lardner attended a meeting regarding the status of Ms Gobbo.⁵²³² Mr McRae said that the purpose of the meeting was to bring together the relevant commanders of the operations that may have received assistance from her to obtain an update as to her current status and make decisions as to future contact with Ms Gobbo in light of the ongoing civil litigation.⁵²³³

4070. Mr Lardner provided an update regarding the civil proceedings.

4071. Reports were given in relation to the status of Ms Gobbo in the three investigation areas:

- Mr Cornelius confirmed Ms Gobbo's status with respect to the Petra Taskforce, that she was a potential witness if there was fresh evidence but was only to be a witness ⁵²³⁴
- Mr Waddell confirmed Ms Gobbo's status with respect to the Briars Taskforce, that she was a potential witness with an alibi ⁵²³⁵

⁵²²⁹ Transcript of Mr Findlay McRae, 31 January 2020, 12769, TRN.2010.01.31.01.

⁵²³⁰ Transcript of Mr Findlay McRae, 31 January 2020, 12769, TRN.2010.01.31.01.

⁵²³¹ Exhibit RC960 Statement of Mr John Cain, 20 September 2019, 4, 5, 7 COM.0082.0001.0001 @ 0004, 0005, 0007.

⁵²³² Exhibit RC1050 Agenda for meeting regarding Witness F Status with handwritten notes of Mr Findlay McRae, 21 June 2010, VPL.0005.0010.2322.

⁵²³³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.21], VPL.0014.0089.0003 @.0025.

⁵²³⁴ Exhibit RC1050 Agenda for meeting regarding Witness F Status with handwritten notes of Mr Findlay McRae, 21 June 2010, VPL.0005.0010.2322.

⁵²³⁵ Exhibit RC1050 Agenda for Meeting regarding Witness F Status with handwritten notes of Mr Findlay McRae, 21 June 2010, VPL.0005.0010.2322.

- Mr Moloney confirmed Ms Gobbo's status with respect to the Purana Taskforce, that she was a 'middle person', not a witness or a source and was of no value to ongoing investigations.⁵²³⁶
4072. Mr McRae said that by this time, he was aware that Ms Gobbo had provided assistance to Victoria Police through the Petra, Purana and Briars Taskforces but that the extent of that assistance remained unknown.⁵²³⁷
4073. At the meeting, it was agreed that then Acting Assistant Commissioner Doug Fryer and Mr Lardner were to be provided with access to the Petra Steering Committee minutes and senior counsel was to be provided with access to the SML.⁵²³⁸

23 June 2010 – OPI Investigation into Management and Handling of Williams and Gobbo Commenced

4074. On 23 June 2010, Mr Fryer met with Guy Lumsden of the OPI regarding an 'OPI own motion investigation into ALL aspects of management and handling of ■ & F to be sending summons on DF re any relevant documents to ■ & F handling (very broad)'.⁵²³⁹

23 June 2010 – Gobbo Had No Practising Certificate from Mid-2009

4075. On 23 June 2010, Mr Lardner forwarded an email from Ms Pekevka to Messrs Moloney, Dunne, Cornelius, Pope and McRae regarding Ms Gobbo's registration to practice.⁵²⁴⁰ Ms Pekevka's email stated that the Legal Services Board confirmed that Ms Gobbo no longer held a practising certificate as at June 2009 but that she was still registered on the Victorian Bar Roll as being on leave. Mr Lardner stated that 'the fact that she has not been registered to practise since 30 June 2009 may impact on investigations if she has been involved since then in the purported role as a formal legal representative'. Mr McRae said of this that he would have been strongly against Ms Gobbo's continued practise or involvement.⁵²⁴¹
4076. On the evening of 23 June 2010, Mr Lardner sent an email to Mr Dunne stating that he, counsel and Mr McRae believe that Mr Dunne would be the right 'front man' at the mediation for Ms Gobbo's claim on 11 August 2010.⁵²⁴² Mr Lardner stated that they needed a 'high profile sworn member who was not really involved' and that they would go through a 'comprehensive briefing process' with Mr McRae and himself arranging

⁵²³⁶ Exhibit RC1050 Agenda for meeting regarding Witness F Status with handwritten notes of Findlay McRae, 21 June 2010, VPL.0005.0010.2322; Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 24-5 [4.24], VPL.0014.0089.0003 @.0026-7.

⁵²³⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.22], VPL.0014.0089.0003 @.0025.

⁵²³⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 23 [4.25], VPL.0014.0089.0003 @.0026; Exhibit RC1050 Agenda for meeting regarding Witness F Status with handwritten notes of Mr Findlay McRae, 21 June 2010, VPL.0005.0010.2322.

⁵²³⁹ Exhibit RC1559 Mr Douglas (Doug) Fryer diary, 23 June 2010, 29, VPL.0005.0161.0059 @.0079.

⁵²⁴⁰ Exhibit RC01087 Email chain involving Monika Pekevka, Peter Lardner, Danny Moloney, Emmett Dunne, Luke Cornelius, Jeffrey (Jeff) Pope, Findlay McRae, 23 June 2010, VPL.0005.0010.2317.

⁵²⁴¹ Transcript of Mr Findlay McRae, 31 January 2020, 12740, TRN.2010.01.31.01.

⁵²⁴² Exhibit RC1662 Email chain involving Douglas (Doug) Fryer, Findlay McRae, Emmett Dunne, Stephen Fontanta, Luke Cornelius, Danny Moloney, Graham Ashton, Paul Hollowood, Jeffrey (Jeff) Pope, Christopher Gawne, 23 June 2010, VPL.0005.0010.2289.

necessary 'area experts'. Mr Dunne responded, indicating there was no problem and that he would need a 'good briefing'.⁵²⁴³

4077. Mr Pope stated that he was asked by Messrs McRae and Lardner to be the senior Victoria Police representative with respect to the mediation arrangements, but they agreed it would not be the best approach because of his previous dealings with Ms Gobbo in 1999 and 2000.⁵²⁴⁴ Mr Lardner confirmed that Mr Pope raised with him his prior dealings with Ms Gobbo in her capacity as a human source.⁵²⁴⁵

24 June 2010 – Meeting of Gobbo Writ Management Steering Committee

4078. On 24 June 2010, a meeting of the Gobbo Writ Management Steering Committee took place. Messrs Ryan, Moloney and Assistant Commissioner Stephen Fontana attended along with standing members of the committee, Messrs McRae, McKenzie and Lardner.

4079. A progress report was included in the written agenda, upon which Mr Lardner made notes including discussion at the meeting. These matters included that:⁵²⁴⁶

- the defence had been drafted in such a way as to allow issues of credit to be raised so that her history with police could be raised at trial if required. That defence was due to be filed the following day
- a meeting had occurred with Messrs Moloney and Cornelius regarding the status of 'Purana/Briars/Petra' and that they were advised of the defence strategy and timeframe
- '30% of transcripts done, pending enhancement of many', beside which Mr Lardner had noted that Petra should flag any transcript not relevant to Petra
- sensitive material had previously been provided to Mr Elms of the VGSO and Mr Ron Gipp of counsel during the Dale subpoena process
- it was agreed to attempt to finalise the civil litigation without releasing too much information as per the broad wording of the defence.

Early July 2010 – SDU Concerned to Retrieve the Gobbo SML

4080. On 5 July 2010, Mr Sandy White spoke with Mr O'Connor about Ms Gobbo's SML being collected from Mr Lardner at the LSD the following day.⁵²⁴⁷

⁵²⁴³ Exhibit RC1662 Email chain involving Douglas (Doug) Fryer, Findlay McRae, Emmett Dunne, Stephen Fontana, Luke Cornelius, Danny Moloney, Graham Ashton, Paul Hollowood, Jeffrey (Jeff) Pope, Christopher Gawne, 23 June 2010, VPL.0005.0010.2289.

⁵²⁴⁴ Exhibit RC1306 Further statement of Jeffrey (Jeff) Pope 21 January 2020, 4 [17], COM.0010.0001.0001.

⁵²⁴⁵ Exhibit RC1231, Statement of Detective Superintendent Peter Lardner, 27 November 2019, 7 [36], VPL.0014.0102.0001 @.0007.

⁵²⁴⁶ Exhibit RC1088 Steering Committee Meeting Agenda for Ms Gobbo's writ management, 24 June 2010, VPL.0005.0010.2220.

⁵²⁴⁷ Exhibit RC0305 Sandy White diary, 5 July 2010, 1139, RCMPI.0092.0001.0001 @.2347.

4081. On 6 July 2010, Mr O'Connor met with Mr Lardner and retrieved the SML. In the weeks thereafter Mr O'Connor answered follow up questions from Mr Bona about entries in the SML.⁵²⁴⁸

28 July 2010 – VGSO Advice on Quantum

4082. On 28 July 2010, Mr Ryan from the VGSO sent advice to Mr Lardner regarding the mediation scheduled for 11 August 2010.⁵²⁴⁹

4083. Mr Ryan noted that the State of Victoria was a model litigant and as such was obliged to resolve claims fairly and avoid litigation if possible where it was reasonably clear that it was serious exposed on liability. Mr Ryan said that given the very clear advice of counsel that the plaintiff was likely to be successful in her estoppel claim, the VGSO was of the view that it was the obligation of the State to make all reasonable efforts to settle the proceeding for a reasonable sum. With respect to quantum Mr Ryan set out a number of scenarios in relation to an award of damages, identifying the second as the most reasonable option. This provided for a settlement figure of [REDACTED].

4084. In providing this advice, Mr Ryan highlighted that sensitive information could be exposed if the matter were to proceed to trial, including:

- scrutiny of procedures adopted by Victoria Police in dealing with informers and the associated publicity which could be damaging to Victoria Police and the administration of the criminal justice system
- the fact that the Plaintiff had provided information to Victoria Police in matters other than the Dale prosecution and that she might still be providing information to Victoria Police
- the many hours of conversations between police members and the Plaintiff that might come out during the discovery process
- relevant emails between Victoria Police members that could be extracted from the Victoria Police database.

4085. Mr Ryan recommended the payment of an additional sum to settle the proceeding, over and above the amount that the Plaintiff might reasonably be expected to be awarded. This additional sum represented the value to Victoria Police in avoiding:

- exposure of sensitive information damaging to the criminal justice system
- diversion of police resources
- significant legal costs being borne by the taxpayer.

⁵²⁴⁸ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 4, [26], VPL.0014.0077.0001 @.0004.

⁵²⁴⁹ Exhibit RC1052 Letter of Advice from Victorian Government Solicitor's Office to Superintendent Peter Lardner, 28 July 2010, VPL.0005.0010.2083.

28 July 2010 – Messrs Overland and Cornelius Involved in Decision about Quantum Settlement

4086. On 28 July 2010, Messrs Overland, Cornelius, McRae and then Assistant Commissioner Stephen Leane attended a meeting regarding Ms Gobbo's writ ahead of the upcoming mediation on 11 August 2010.⁵²⁵⁰ They discussed the proposed settlement quantum, agreed with Mr Ryan's advice, and determined that they would recommend a [REDACTED] cap to the Minister.

4 August 2010 – Sandy White Meets with VicPol Lawyers

4087. On 4 August 2010, Mr Sandy White attended a meeting at senior counsel's chambers, along with VGSO solicitors in relation to the civil litigation.⁵²⁵¹

4088. Mr Sandy White told the Commission he remembered being called to a meeting around this time in relation to 'a pay-out to Ms Gobbo'. He recalled telling those at the meeting about the serious risk to Ms Gobbo should she be exposed, and related the incident which had occurred between Ms Gobbo and Mr Horty Mokbel when he had grabbed her around the throat in May 2006 following the arrest of Mr Cooper.⁵²⁵²

5 August 2010 – OPI Briefing on Mediation Strategy and Proposed Settlement

4089. On 5 August 2010, Mr McRae attended a meeting with Messrs Cain (VGSO), Michael Strong (OPI) and Jevtovic (Deputy Director of the OPI) at the OPI to discuss 'F'.⁵²⁵³ They discussed the mediation strategy and the settlement proposal for the matter. Mr McRae said that it was not his usual practice to brief the OPI in relation to civil litigation involving Victoria Police and that he did so in this instance because of the comparatively high value of the settlement and the fact that a barrister was involved.⁵²⁵⁴

4090. Mr McRae told the Commission that he wanted the OPI to have an awareness of Ms Gobbo's status as a lawyer and a source, and of the claims and of the response by Victoria Police.⁵²⁵⁵ He said he was interested in hearing back from the OPI as to whether there were any matters which they wanted to raise about such issues because they were the oversight body.⁵²⁵⁶

4091. Mr McRae briefed the OPI armed with copies of the writ, defence and the advice from the VGSO.⁵²⁵⁷ His file note records that two of these documents were retained by the OPI.⁵²⁵⁸ Mr McRae said that he could not recall to which two of those documents his note referred.⁵²⁵⁹ The overwhelming

⁵²⁵⁰ Exhibit RC1053 File note of Mr Findlay McRae, 28 July 2010, VPL.0005.0010.2080.

⁵²⁵¹ Exhibit RC0305 Mr Sandy White diary, 4 August 2010, 1156, RCMP.0092.0001.0001 @.2364.

⁵²⁵² Transcript of Mr Sandy White, 20 August 2019, 4915-4917, TRN.2010.08.20.01.

⁵²⁵³ Exhibit RC1092 File note of Mr Findlay McRae, 5 August 2010, VPL.0005.0010.2049.

⁵²⁵⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 26 [4.36], VPL.0014.0089.0003 @.0028.

⁵²⁵⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 26 [4.36], VPL.0014.0089.0003 @.0028.

⁵²⁵⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 26 [4.36], VPL.0014.0089.0003 @.0028.

⁵²⁵⁷ Exhibit RC1092 File note of Mr Findlay McRae, 5 August 2010, VPL.0005.0010.2049; Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 26 [4.36], VPL.0014.0089.0003 @.0028.

⁵²⁵⁸ Exhibit RC1092 File note of Mr Findlay McRae, 5 August 2010, VPL.0005.0010.2049.

⁵²⁵⁹ Transcript of Mr McRae, 31 January 2020, 12753 [3]-[4].

inference to be drawn is that the writ and defence were retained by the OPI. These two documents did not refer to Ms Gobbo's status as an informer. As referred to above, the advice referred to the fact that Ms Gobbo had provided information to Victoria Police, other than in relation to Mr Dale, and that she may still be doing so.⁵²⁶⁰

4092. Mr McRae accepted when examined that the purpose of the meeting was about the settling of the litigation, not about Ms Gobbo's status as a human source. Mr McRae said he had not formed a view that there had been misconduct involved in the use of Ms Gobbo as a human source, thus he was not referring it to the OPI on that basis.⁵²⁶¹
4093. Mr McRae stated that although not recorded in his file note, he recalled that as they walked into the meeting, Mr Jevtovic stated to him that Ms Gobbo had prevented a lot of harm to the community, which Mr McRae took to mean that the OPI were already aware of Ms Gobbo's role in providing information to police.⁵²⁶² Mr McRae said he did not interrogate the OPI about its knowledge, instead he put forward the documents so they had an opportunity to make comments.⁵²⁶³
4094. Mr McRae agreed that the references to Ms Gobbo's history as a human source in the advice was by no means comprehensive, in light of the information that was available, including for example the SML. As referred to above, this was a document available to Mr McRae, and which he had indicated he would read. It was put to Mr McRae, that if he had read that document he would have understood that Ms Gobbo had been informing on those she was acting for. Mr McRae responded, 'If you knew who the clients were, yes'. Mr McRae said that if the OPI had requested that information, it would have been provided.⁵²⁶⁴
4095. It is submitted that the OPI was not given any information about the extent and nature of Ms Gobbo's role, so was not in a position to know to request such information.

9 August 2010 – Hanks Advice for Ministerial Approval

4096. On 9 August 2010, Mr Hanks provided advice to the State of Victoria on the question whether Ministerial approval should be given to negotiate a settlement of the proceedings brought by Ms Gobbo against the State of Victoria and the then current and former Chief Commissioners of Police.⁵²⁶⁵ Mr Hanks advised that because Ms Gobbo would be able to establish liability in the State to pay her equitable compensation, the State had a substantial financial exposure and that the most likely amount of compensation ordered would be around [REDACTED] with a premium of [REDACTED] so that Victoria Police could avoid public exposure.

⁵²⁶⁰ Exhibit RC1052 Letter of Advice from Victorian Government Solicitor's Office to Peter Lardner, 28 July 2010, VPL.0005.0010.2083.

⁵²⁶¹ Transcript of Mr Findlay McRae, 31 January 2020, 12760-61, TRN.2010.01.31.01.

⁵²⁶² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, tendered 30 January 2020, [4.37]. VPL.0014.0089.0003

⁵²⁶³ Transcript of Mr Findlay McRae, 31 January 2020, 12756, TRN.2010.01.31.01.

⁵²⁶⁴ Transcript of Mr Findlay McRae, 31 January 2020, 12761, TRN.2010.01.31.01.

⁵²⁶⁵ Exhibit RC1743 Memorandum of Advice from Mr Peter Hanks, 9 August 2010, VPL.0005.0010.2706.

4097. Mr Hanks' advice was provided to the VGSO.⁵²⁶⁶

9 August 2010 – Ministerial Approval Sought for Settlement

4098. On 9 August 2010, Mr McRae provided a confidential briefing to the Minister for Police & Emergency Services, the Honourable Bob Cameron.⁵²⁶⁷ In the briefing, there was a reference to Ms Gobbo's involvement in the provision of information to police in relation to Mr Dale, but there was no mention of Ms Gobbo's status as a registered human source or the history of her involvement with Victoria Police. The briefing contained Mr McRae's signature block but was signed by Mr Lardner. Mr McRae did not refer to this confidential briefing note in his statement.⁵²⁶⁸

4099. Mr McRae gave evidence that Mr Cain was going to facilitate separate, independent advice to the Minister regarding Ms Gobbo's status as an informer.⁵²⁶⁹ However, as indicated above, Mr Cain said he was not aware that Ms Gobbo was an informer until 2015.⁵²⁷⁰

4100. On 10 August 2010, Mr Overland wrote to Minister Cameron, requesting an instrument of authorisation be provided to settle the matter for up to [REDACTED].⁵²⁷¹ In his letter, he referred to the confidential briefing paper provided by the Victoria Police Director of Legal Services, which he stated was supported by senior counsel.

4101. On 11 August 2010, Minister Cameron with reference to the briefing paper provided by Mr McRae, approved the instrument of authorisation.⁵²⁷² Minister Cameron's Instrument of Authorisation was addressed to Messrs Overland and McRae.⁵²⁷³

11 August 2010 – Gobbo Settlement with Victoria Police

4102. On 11 August 2010, the Terms of Settlement were signed by Ms Gobbo and Mr Ryan.⁵²⁷⁴ The settlement only referred to Ms Gobbo's status as a witness in the proceeding contemplated against Mr Dale and did not refer to her history as a registered informer. The settlement included a term that Victoria Police no longer proposed to call Ms Gobbo to give evidence in any proceedings and that no Victoria Police members from the Petra Taskforce would contact her.

⁵²⁶⁶ Transcript of Mr Findlay McRae, 31 January 2020, 12766, TRN.2010.01.31.01.

⁵²⁶⁷ Exhibit RC1783 Confidential briefing paper to Minister for Police & Emergency Services, 9 August 2010, VPL.0005.0010.2045.

⁵²⁶⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, VPL.0014.0089.0003.

⁵²⁶⁹ Transcript of Mr Findlay McRae, 31 January 2020, 12766, TRN.2010.01.31.01.

⁵²⁷⁰ Exhibit RC0960 Statement of Mr John Cain, 29 September 2019, 3 [19], COM.0082.0001.0001.

⁵²⁷¹ Exhibit RC0915 Statement of Mr Simon Overland 19 September 2019, 36 [187],

COM.0082.0001.0001 @.0036; Exhibit RC1721 Letter from Mr Simon Overland to the Hon Bob Cameron MP, 10 August 2010, VPL.0005.0010.2044.

⁵²⁷² Exhibit RC0930 Letter from the Hon Bob Cameron, Minister for Police and Emergency Services, 11 August 2010, VPL.0005.0010.2033.

⁵²⁷³ Exhibit RC1786 Instrument of Authorisation for the Office of the Chief Commissioner of Police, 11 August 2010, VPL.0005.0010.2032.

⁵²⁷⁴ Exhibit RC1828 Terms of Settlement signed by Gobbo and Ryan, 11 August 2010, VPL.0005.0010.2026.

12 August 2010 – Gobbo Immediately Tries to Re-Engage with VicPol

4103. Immediately after signing the terms of settlement indicating that members from the Victoria Police Petra Taskforce would not contact her, on 12 August 2010, then Detective Senior Constable Angela Hantsis emailed Detective Inspector David Jones indicating that at 2.10pm, she received the following text message from 'Witness F':⁵²⁷⁵

Hi Ang, until permitted contact with me again, I just wanted to say thank you for your wise words to Cooper who passed on your message. I've just been re-diagnosed with stress relates [sic] cancer (reappeared since March surgery) and I intend to do as you suggested, to "look after myself" I made the mistake of trusting people I respected highly stupidly thinking they actually cared. It really hurts to be used and taken advantage of especially when serious illness results. I truly thank you for your kind thoughts conveyed by Cooper. Ps I understand that you'd be there to offer the support I so badly required if you were allowed contact.

4104. Mr Jones sent Ms Hantsis' email to Messrs Fryer, O'Connell, Lardner, Bona, O'Connor, then Detective Inspector Michael Roberts and then Mr Graham Evans stating:⁵²⁷⁶

Great news re the settlement with Witness F yesterday.

However you will see below that she has already re-commenced contact (by SMS) with Purana member D/S/C Ang Hantsis and appears to be trying to re-engage.

13 August 2010 – Instruction to Subpoena Management Unit regarding Gobbo Requests

4105. On 13 August 2010, Mr Lardner prepared a memorandum to the OIC at the Subpoena Management Unit requesting the following:⁵²⁷⁷

...if any lawful request/order for production/subpoena/s are received by your office requesting the production of the following documents:

- a) *audio recordings of conversations between Nicola Maree GOBBO and members of the PETRA Task Force (D/S/Sgt Shane O'Connell, D/Sgt Solon Solomon, S/S/C Cameron Davey, D/Insp Steve Smith, Mr Graham Evans, Mr Lloyd)*
- b) *any documents pertinent to Nicola Maree GOBBO and the investigation of other matters conducted by Victoria Police Force;*

The Director Legal Services, and the Officer in Charge Civil Litigation Division, are to be notified immediately, and file number RECFIND 062552/2010 quoted.

⁵²⁷⁵ Exhibit RC1094 Email chain involving Angela Hantsis, David Jones, Douglas (Doug) Fryer, Shane O'Connell, Graham Evans, Peter Lardner, Andrew Bona, Michael Roberts, John O'Connor, 12 August 2010, VPL.0005.0010.2020.

⁵²⁷⁶ Exhibit RC1094 Email chain involving Angela Hantsis, David Jones, Douglas (Doug) Fryer, Shane O'Connell, Graham Evans, Peter Lardner, Andrew Bona, Michael Roberts, John O'Connor, 12 August 2010, VPL.0005.0010.2020.

⁵²⁷⁷ Exhibit RC1095 Memorandum from Detective Superintendent Peter Lardner to Officer in Charge, Subpoena Management Unit, 13 August 2010, VPL.0005.0010.1989.

This direction is to remain in force until 20th August, 2020, or until further directed.

4106. A notation on the memorandum indicated that a copy of the memorandum was handed to Acting Senior Sergeant Luke Charlesworth on 17 August 2010.

16 August 2010 – Overland Response to Minister

4107. In providing the instrument of authorisation to make the settlement payment to Ms Gobbo, Minister Cameron wrote to Mr Overland on 11 August 2010. He made reference to the issues involved in the litigation, and that such matters had been the subject of a review and report by the Director of Police Integrity, and requested that Mr Overland advise him of the strategies that Victoria Police would deploy to mitigate the risk of such issue arising again.⁵²⁷⁸
4108. On 16 August 2010, Mr Overland replied to Minister Cameron, stating that there was a 'complex history to this matter and due to operational and security concerns you will appreciate that I am unable to brief you fully as to the detail', however gave an undertaking that he would do 'everything possible to ensure that there was no repeat of such a claim against Victoria Police'.
4109. Mr Overland wrote that he had appointed Assistant Commissioner Pope into a new role in charge of the Intelligence and Covert Support Department, who had been progressively reviewing processes around such high risk undertakings, including a review of the management of such witnesses. In addition, Mr Overland said he had given Mr Pope immediate directions in regard to the management of any further dealings with Ms Gobbo.
4110. Mr Overland said further that 'the primary intention at all times had been to ensure the safety of Ms Gobbo. Initially this was for the purpose of assisting in a very serious and significant criminal prosecution, but now relates exclusively to her safety.'⁵²⁷⁹
4111. Mr Overland did not inform the Minister that the risk posed by the relationship between Victoria Police and Ms Gobbo was far greater than that represented by the settlement the Minister had authorised.
4112. That day, Mr Overland had written to Mr Pope. He confirmed a verbal direction given on 12 August 2010 for members of the Petra Taskforce not to contact Ms Gobbo, which he understood Mr Pope had passed on. Mr Overland directed that in the event Ms Gobbo made contact with any member of the Taskforce she should be advised she could only contact the manager of the SDU or his delegate, and only then if it related to her personal security. He stated that under no circumstances was any

⁵²⁷⁸ Exhibit RC930 (Confidential) Letter from the Hon Bob Cameron to Simon Overland, 11 August 2010, SOV.0001.0001.0011.

⁵²⁷⁹ Exhibit RC0952 Letter from Simon Overland to the Hon Bob Cameron, 16 August 2010, VPL.0005.0010.1974.

information, intelligence or evidence to be solicited or taken from Ms Gobbo by any member of the Petra Taskforce.⁵²⁸⁰

29 August 2010 – Standard Operating Procedure regarding Ms Gobbo

4113. On 29 August 2010, following the settlement with Ms Gobbo, Mr Sheridan prepared a Standard Operating Procedure (SOP) for contact with Ms Gobbo.⁵²⁸¹ Mr Overland was not aware that there was a SOP relating to Ms Gobbo, and did not make any further enquiries because he understood that his instruction was being followed.⁵²⁸²

4114. The SOP included the following:

The following options may apply to information received from Witness F:

- *Information may not be acted on for reasons which may jeopardise Witness F safety or security, issues of identification etc will be major considerations in this aspect*
- *The SDU Detective Inspector to advise Witness F that information received may or may not be acted upon*
- *Information after sanitisation may be re directed to appropriate investigative units*
- *Information is not to be sourced to be Witness F*
- *Investigators are to be advised that information has been received from a person who cannot be identified.*

4115. The effect of this SOP was that information from Ms Gobbo might be disseminated such that there was no ability to identify the source of the information.

4116. Mr Overland gave evidence to the Commission that the section of the SOP outlined above was of concern and was not consistent with what he understood his instruction to be.⁵²⁸³

McRae's Knowledge of Ms Gobbo's Ongoing Contact with Victoria Police

4117. Following the settlement, on 8 September 2010 Mr McRae was copied into correspondence from Mr Lardner to Mr Sheridan that provided advice regarding the best way to proceed in relation to future contact with Ms Gobbo. In particular 'F' had indicated she wanted to provide information concerning the Taskforce Driver investigation.⁵²⁸⁴ Mr Lardner forwarded this email, cc'd Mr McRae in, and specified that in relation to receiving information for a priority criminal investigation, if Ms Gobbo rings and makes a statement that 'Joe Bloggs did this or is about to do that' then they would

⁵²⁸⁰ Exhibit RC0951, Memorandum from Mr Simon Overland to Mr Jeffrey (Jeff) Pope, 16 August 2010, VPL.0005.0195.1212.

⁵²⁸¹ Exhibit RC0441 SDU Standard Operating Procedure for Contact with Witness F, 29 August 2010, VPL.6025.0006.4174.

⁵²⁸² Transcript of Mr Simon Overland, 20 December 2019, 11905, TRN.2019.12.20.01.

⁵²⁸³ Transcript of Mr Simon Overland, 20 December 2019, 11907, TRN.2019.12.20.01.

⁵²⁸⁴ Exhibit RC0838 Email from Peter Lardner to Paul Sheridan, copying John O'Connor, Jeffrey (Jeff) Pope, Findlay McRae, Ken Jones, 8 September 2010, VPL.0005.0013.1038.

write it down and say 'thanks, good bye'. Mr Lardner said that she should not be tasked to make any enquiry or follow up any piece of information.

4118. Mr Lardner specified that the accountability for her management still sat with Mr Pope.

4119. Mr Overland told the Commission that he thought Mr Pope would have been aware of the issues associated with whether Ms Gobbo had been providing information against clients in relation to people for whom she was acting.⁵²⁸⁵ Mr Overland said that at the conclusion of the litigation, he did not recall having any specific information that suggested that any case may have been affected as a result of the conduct of the SDU or the investigators.⁵²⁸⁶

⁵²⁸⁵ Transcript of Mr Simon Overland, 20 December 2019, 11906, TRN.2019.12.19.01.

⁵²⁸⁶ Transcript of Mr Simon Overland, 20 December 2019, 11906-7, TRN.2019.12.20.01.

CHAPTER 20 – 2011 – THE SECOND GOBBO WITNESS PHASE, DISCLOSURE ISSUES & THE MAGUIRE ADVICE

Introduction

4120. In the course of 2011, Victoria Police and the Purana Taskforce achieved further convictions on the back of Ms Gobbo's previous assistance as a human source, including her 'rolling' of Mr Cooper.
4121. This included the case of Mr Zlate Cvetanovski, whose counsel, it is submitted, came very close to identifying the truth when he indicated to the Court that he proposed to suggest that Mr Cooper, Ms Gobbo and the police had been co-operating to implicate his client. An analysis of the circumstances around this case is set out below.
4122. Not long after this came a breakthrough for the Purana Taskforce and Victoria Police when Mr Tony Mokbel entered a plea of guilty to negotiated charges. Prior to his sentence, however, Mr Mokbel sought to withdraw his plea when it was discovered that evidence against him might have been gathered through the use of search warrants based upon improperly sworn affidavits. Substantial litigation ensued in relation to this matter.
4123. Also, that year Ms Gobbo became a witness for the second time against Paul Dale. This time he was charged with offences of making false statements during evidence he gave to the ACC, contrary to the Australian Crime Commission Act (the ACC Act). Boris Buick, who had already had dealings in a number of cases relating to Ms Gobbo, and knew of her status as a human source, became the informant in the matter. Over time, his concerns grew that Ms Gobbo's role as a human source might be exposed as a result of her giving evidence. He sought legal advice from Mr Gerard Maguire of counsel. This appears to have been the first time counsel were instructed by Victoria Police to the extent allowed for sensible advice to be provided.
4124. Mr Maguire advised that disclosure of some material may be required relating to Ms Gobbo's dealings with the SDU insofar as they concerned Mr Dale, and that a claim of public interest immunity may well be defeated. He noted the likelihood that further material would be sought demonstrating Ms Gobbo's informing on others for whom she was acting. Mr Maguire further advised of the possibility that if persons such as Mr Tony Mokbel became aware of Ms Gobbo's role, they might seek to challenge their convictions on the basis they were unlawfully obtained.
4125. Once it was confirmed that Ms Gobbo's role would need to be disclosed to the Court for the purposes of a public interest immunity argument, steps were taken by Victoria Police to have Ms Gobbo withdrawn as a witness.
4126. In this process, those in Victoria Police command, and the Director of Legal Services, also became aware that convictions had been obtained and at least two cases were on foot (those of Mr Tony Mokbel and Mr Rabie

Karam) where Ms Gobbo had provided legal services and informed on the client at the same time.

4127. It is submitted that whilst this demanded immediate action by Victoria Police, none was taken.
4128. Further, the evidence demonstrates that no further legal advice was sought to determine whether disclosure should be made to the defence in those cases, and no disclosure of such material was made to the OPP or the CDPD who were prosecuting those matters. The cases on foot were left to run to their conclusion, and those who may have been convicted improperly were left to serve out their sentences.

The Dale ACC Prosecution

Background

4129. Following the death of Carl Williams in April 2010 and the withdrawal of the murder charges against Mr Dale in May 2010, the Petra Taskforce was disbanded. Its investigations were taken over by the Driver Taskforce, which had been initially established by Deputy Commissioner Sir Ken to investigate the circumstances surrounding the murder of Carl Williams.

Ken Jones

4130. Sir Ken had previously worked extensively in the United Kingdom police service before emigrating to Australia in March 2009.⁵²⁸⁷
4131. He had been an unsuccessful applicant for the role of Chief Commissioner, which had been given to Mr Overland. He was asked, however, to apply for a role as Deputy Chief Commissioner, which he did. Shortly after commencing in the role, Sir Ken raised issues in relation to the bureaucracy and decision-making processes within Victoria Police. It was not long before some tensions emerged in the relationship between Messrs Overland and Jones. Sir Ken was particularly concerned when, in response to the conflict between them, Mr Overland asked that Sir Ken relocate out of police headquarters, to the Crime Department at St Kilda Road.⁵²⁸⁸
4132. In early 2010, Sir Ken took control of the Briars and Petra Taskforces. He asked to see records of previous meetings and were told there were none. He was told there were no minutes, no details of who had been attending, and no records of decisions on overall direction and control. He suspected that something was being hidden from him.⁵²⁸⁹
4133. Sir Ken read the terms of references for one of the Taskforces and noted that the OPI had been jointly involved in directing operations. He viewed such joint operations as compromising the independent function of the OPI and had taken steps to stop this from occurring in future. Sir Ken had spoken to OPI Director Mr Michael Strong about his concerns in late 2009.

⁵²⁸⁷ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 3 [8-11], COM.0088.0002.0001 @.0003.

⁵²⁸⁸ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 3-6 [8-22], COM.0088.0002.0001 @.0003.

⁵²⁸⁹ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 11 [40-41], COM.0088.0002.0001 @.0011.

Subsequently, Sir Ken wrote to Mr Strong in order to state that joint operational links were now severed.⁵²⁹⁰

4134. Amongst various other concerns, Sir Ken said that he came to understand that Ms Gobbo had been heavily engaged as a registered informer over a period of years. She had provided information to police in respect of investigations linked to Mr Carl Williams and others, including investigations by the Purana and Briars Taskforces. He saw documents which indicated that Ms Gobbo's engagement had been sanctioned by senior people with links to the Steering Committees that Sir Ken had taken over.⁵²⁹¹

Late 2010 – Jones Reports Gobbo Concerns

4135. Sometime between September and November 2010, Sir Ken spoke to the Deputy Ombudsman in relation to his concerns about the use of Ms Gobbo as an informer, amongst other matters.⁵²⁹² Following this, in late 2010, Sir Ken also met with His Honour Frank Vincent AO QC, with whom he had previously worked. Sir Ken stated that he advised Mr Vincent that he had uncovered serious wrongdoing by Victoria Police which had resulted in the undermining of the criminal justice system over a number of years. Sir Ken raised the possibility that Mr Vincent might lead a review and was told that this would need to be commissioned by the Chief Commissioner. Sir Ken was aware that Mr Overland had been involved in compromised decision making and was conflicted as to the issue. He considered he could not take this further. Sir Ken said they then discussed whether Sir Ken should make a more formal approach to the Ombudsman.⁵²⁹³
4136. In January 2011, Sir Ken reported several concerns to the Ombudsman, one of which related to Ms Gobbo.⁵²⁹⁴
4137. Following this time certain other issues developed and the relationship between Messrs Overland and Jones became increasingly more fractious. These issues are referred to in the '*Special report concerning allegations about the conduct of Sir Ken Jones QPM in relation to his dealings with certain confidential Police information.*'⁵²⁹⁵ On 6 May 2011, Sir Ken left Victoria Police when he was 'constructively dismissed'.⁵²⁹⁶
4138. Acting Deputy Commissioner Tim Cartwright stepped into his role and was formally appointed as Deputy Commissioner in early 2012.

⁵²⁹⁰ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 9, 11 [33-34, 42], COM.0088.0002.0001 @.0009, @.0011.

⁵²⁹¹ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 16 [61], COM.0088.0002.0001 @.0016.

⁵²⁹² Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 16 [63], COM.0088.0002.0001 @.0016; Transcript of Sir Ken Jones, 13 December 2019, 11176, TRN.2019.12.13.01.

⁵²⁹³ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 19-20 [95-97], COM.0088.0002.0001 @.0019.

⁵²⁹⁴ Exhibit RC0903 Statement of Sir Ken Jones, 27 September 2019, 20 [98], COM.0088.0002.0001 @.0020.

⁵²⁹⁵ Special Report concerning allegations about the conduct of Sir Ken Jones QPM in relation to his dealings with certain confidential Police information, IBAC, February 2014. [publicly available]

⁵²⁹⁶ Special Report concerning allegations about the conduct of Sir Ken Jones QPM in relation to his dealings with certain confidential Police information, IBAC, February 2014, 64. [publicly available]

December 2010 – CDPP Approve Dale ACC Prosecution

4139. Prior to the disbandment of the Petra Taskforce, a brief of evidence recommending charges against Mr Dale for offences against the ACC Act was submitted to the CDPP for consideration by Detective Sergeant Solon Solomon. The brief included the statement taken from Ms Gobbo dated 7 January 2009, in which she produced a recorded conversation with Mr Dale which was substantially relied upon in support of the proposed charges. It had been clear that the defence in the Dale murder prosecution had made an assertion that Ms Gobbo was Mr Dale's legal representative at the relevant time, and that communications between them were protected by legal professional privilege, rendering them inadmissible. It was to be expected that this defence would be raised in any new proceeding relying upon such evidence.
4140. On 20 December 2010 a meeting took place at the CDPP involving Deputy Director Mark Pedley, solicitors Krista Breckweg and Vicki Argitis, Deputy Commissioner Ken Jones, Inspectors Chris Gawne and Michel Frewen, and Mr Solomon, who by that stage had been transferred away from the Driver Taskforce. The CDPP indicated that after examining the brief of evidence they considered the case against Mr Dale to be strong and that it should proceed.⁵²⁹⁷
4141. There were complications in calling Ms Gobbo as a witness. Victoria Police had not managed to come to terms with Ms Gobbo in relation to witness protection after she had signed her statement in 2009; she had proven very demanding and difficult to deal with. Additionally, in April 2010 Ms Gobbo had commenced proceedings against the State of Victoria, and former Chief Commissioners Ms Nixon and Mr Overland seeking damages in respect of allegations of wrongdoing, essentially that Victoria Police had failed to adequately protect her when she became a witness in the prosecution of Mr Dale. In August 2010, a confidential settlement had been reached which included recitals stating that Victoria Police no longer proposed to call Ms Gobbo to give evidence in any proceedings, and terms which released Ms Gobbo from any agreement, arrangement or understanding that she provide any support or assistance for Victoria Police in relation to any matter. Sir Ken informed the CDPP of his understanding of the settlement term.⁵²⁹⁸ It is submitted that the settlement term was in reality, unenforceable. Ms Gobbo was a competent and compellable witness.
4142. Sir Ken did not inform the CDPP of his awareness that Ms Gobbo had been a human source and therefore had credibility problems. When examined about this, Sir Ken disagreed that his intention was that the Dale ACC prosecution would proceed without revealing Ms Gobbo's role as a human source. He understood that there would be a disclosure process during that prosecution, which would also enable the issue to be taken up by the Ombudsman. Sir Ken said he did not know how broad and how deep the issue went and did not want to disclose the matter prior to the investigation occurring. Sir Ken said that he had a discussion with the CDPP at the

⁵²⁹⁷ Exhibit RC0326 Statement of Solon (Sol) Solomon, 15 January 2019, 18-19, COM.0041.0002.0001 @.0018-.0019.

⁵²⁹⁸ Exhibit RC1829 Terms of Settlement, *Nicola Gobbo v State of Victoria, Simon Overland and Christine Nixon*, 11 August 2010, VPL.6124.0014.5077

meeting about how the tape recording could be produced in a way that would not involve raising Ms Gobbo's character or credibility.⁵²⁹⁹

4143. During the meeting, Mr Solomon confirmed with Sir Ken that the brief was authorised for prosecution. On 24 January 2011 Mr Solomon became the informant in the case when he filed 24 charges and summonses against Mr Dale.
4144. Upon notifying the CDPP that the charges had been filed, Mr Solomon was requested to return the brief to them as it had been sent back to Crime Command. When Mr Solomon made this request of the Driver Taskforce, he was called into to the office and taken to see Crime Department Superintendent Brett Guerin. Mr Solomon described his interaction with Mr Guerin as one of the most bizarre interactions he has ever had with a senior officer. He said that Mr Guerin, who appeared to be making corrections to the brief with a red pen, told him that he had found flaws in the brief making it unsuitable for prosecution. Mr Solomon informed him that the CDPP had considered the brief to be strong and ready for prosecution and that the brief had been personally authorised by Sir Ken. It was apparent that Mr Guerin had no knowledge of this. Mr Solomon was then told he was to be withdrawn as the informant and replaced with another nominal informant, and a disagreement occurred between them. Following the meeting Mr Solomon was told by Detective Sergeant Buick that he had been instructed to take over as informant. Subsequently the charges and summonses issued by Mr Solomon were withdrawn and then re-issued by Mr Buick.⁵³⁰⁰

February 2011 – Commencement of ACC Prosecution

4145. On 15 February 2011, Mr Paul Dale was charged with offences contrary to the ACC Act. Mr Buick had the task of informing Ms Gobbo of the intention to call her as a witness, and of dealing with her thereafter.
4146. In the course of his dealings with her, Mr Buick became aware that the complications of calling Ms Gobbo as a witness were not simply those referred to above. In the course of the year, Ms Gobbo explicitly told Mr Buick about aspects of her history as a source with the SDU, and her involvement in representing and informing on clients including Messrs Mokbel, Cooper, Thomas, Orman and Karam. Mr Buick was concerned to prevent disclosure of Ms Gobbo's history as a Victoria Police informer.
4147. On 16 February 2011, Mr Buick met with Ms Gobbo to inform her of the prosecution against Mr Dale. He recorded their conversation. During the conversation Ms Gobbo referred to the matter of Orman, for which Mr Buick had been the informant, claiming credit for his conviction:⁵³⁰¹

MS GOBBO: ... The High Court matter you went up to Canberra for laws week, you know how that happened.

MR BUICK: Well, I know, you've said that the other day. I ---

⁵²⁹⁹ Transcript of Sir Ken Jones, 13 December 2019, 11225-11229, TRN.2019.12.13.01.

⁵³⁰⁰ Exhibit RC0326 Statement of Mr Sol (Sol) Solomon, 15 January 2019, 20, COM.0041.0002.0001 @.0020.

⁵³⁰¹ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 27 September 2011, 27, VPL.0100.0068.0953 @0979.

- MS GOBBO: Go and ask ---*
- MR BUICK: I thought that was my – I thought that was my hard work.*
- MS GOBBO: No. You go and ask the right people Boris – it was a very well hidden thing, that's why Sandy White, Green and Peter Smith are exceptionally good ... detectives. However, one would have thought that after you do all of that, someone shakes you hand and says, "Thank you."*
- MR BUICK: you got ... convicted for me.*
- MS GOBBO: You know. You don't need me to say it for the tape.*
- MR BUICK: No, I was going to shake your hand if you said yes.*

April 2011 – Trial of Zlate Cvetanovski

Background

Overview of Trials of Cvetanovski

4148. Further information in relation to the matters referred to below can be found in the Case Review for Mr Cvetanovski at Volume 3, and at Chapters 10 (the Recruitment and Use of Ms Gobbo) and 11 (submissions concerning Mr Cooper).
4149. In 2011, Mr Cvetanovski faced trial before Judge Montgomery of the County Court in relation to two sets of allegations. One for offending in relation to Operation Posse, relating to drug offending, and the other for Operation Waugh, relating to his obtaining a financial advantage by deception.
4150. In relation to the Waugh case, a trial took place between 21 February and 17 March 2011 resulting in guilty verdicts, whereupon Mr Cvetanovski was remanded in custody.
4151. In relation to the Posse case, a trial took place between 28 March and 9 May 2011 when the jury was discharged without verdict. A second trial took place between 6 June and 8 July 2011 in which Mr Cvetanovski was found guilty.
4152. During these trials Mr Cvetanovski was represented by Mr Michael Pena-Rees of counsel. The prosecutor was Mr John Champion SC. Mr Champion was appointed as the Director of Public Prosecutions during the second Posse trial.
4153. On 24 August 2011, Mr Cvetanovski entered a plea of guilty in the Supreme Court in relation to subsequent drug offending in 2007 and 2008 relating to an investigation known as Operation Coverdrive.

4154. On 13 April 2012, he was sentenced to a total effective sentence of 11 years' imprisonment, with a non-parole period of 9 years.⁵³⁰²
4155. On 4 February 2014, following guilty pleas to further offending, Mr Cvetanovski was sentenced to a total effective sentence of 6 years' imprisonment, 2 years of which was ordered to be served cumulatively on the sentence imposed on 13 April 2012. A new non-parole period of 6 years and 6 months was fixed commencing from that date. This meant that Mr Cvetanovski would become eligible for parole in August 2020.

Cooper a Crucial Witness in the Posse Case

4156. In relation to the Posse case, Mr Cvetanovski had first been arrested on 25 April 2006. He sought legal advice from Ms Gobbo and gave a 'no comment' interview to police. He was released without charge. He was subsequently interviewed on 8 March 2007 and 15 April 2008, again giving 'no comment' interviews. Following this last interview, he was charged and remanded before being bailed 23 April 2008.
4157. Mr Cooper was a crucial witness in the case against Mr Cvetanovski.
4158. A detailed analysis of Mr Cooper's matter is set out in Chapter 11.
4159. Following Mr Cooper's arrest on 22 April 2006:
- 4159.1. On 8 May 2006 Ms Gobbo told her police handler, Mr Peter Smith, that Mr Cooper was not telling the police everything he knew about Mr Cvetanovski.
- 4159.2. On 14 May 2006, Ms Gobbo was brought in by Mr Flynn to speak with Mr Cooper, including about concerns that he was protecting associates relating to financial matters, whereupon Ms Gobbo and Mr Flynn both spoke with Mr Cooper for a time, then Ms Gobbo was left alone to speak with Mr Cooper.
- 4159.3. On 15 May 2006, Ms Gobbo told Mr Peter Smith that amongst other matters, she had spoken to Mr Cooper about how to make himself 'bullet proof' from cross-examination. On that day Ms Gobbo also told Mr Peter Smith that Mr Cooper had spoken with Mr Cvetanovski and 'sorted things out temporarily', and of her arrangements to meet with Mr Cvetanovski later that day. She asked if he was to be arrested, and with the permission of the OIC of Purana, Mr O'Brien, she was told he was not to be arrested at that time.
- 4159.4. On 22 May 2006, Ms Gobbo told Mr Peter Smith she had spoken at length with Detective Sergeant Jim Coghlan in relation to affidavits relating to restraining orders against Mr Cvetanovski and there being confidential affidavits on the court file.⁵³⁰³

⁵³⁰² Exhibit RC1862 Reasons for Sentence, *DPP v Cvetanovski* [2017] VCC, 66, OPP.0004.0001.5232; Transcript of Mr Dale Flynn, 3 October 2019, 7188, TRN.2019.10.03.01.

⁵³⁰³ Exhibit RC0281 ICR 3838 (032), 22 May 2006, 305, VPL.2000.0003.1891.

4160. On 30 May 2006, Ms Gobbo told her handler, Mr Green, that Mr Cvetanovski had provided her with his confiscation papers.⁵³⁰⁴
4161. On 10 June 2006, Ms Gobbo told Mr Green that Mr Cooper had contacted her very angry at Mr Cvetanovski in relation to his lack of financial support, and that Mr Cooper wanted Ms Gobbo to contact Mr Cvetanovski and tell him not to contact him further.⁵³⁰⁵
4162. On 11 June 2006, Ms Gobbo told Mr Green that Mr Cvetanovski had visited Mr Cooper in custody, and that a message should be provided to Mr Flynn that Mr Cooper wanted to amend some of his statements about Mr Cvetanovski.⁵³⁰⁶
4163. On 12 June 2006, Ms Gobbo told Mr Green that Mr Cooper wanted Mr Cvetanovski off his visitors list as he had cost him money, and Mr Cooper believed that Mr Cvetanovski was responsible for his arrest.⁵³⁰⁷
4164. On 23 June 2006, Ms Gobbo expressed concern to Mr Peter Smith about Mr Cooper and indicated she would visit that weekend. Ms Gobbo also suggested that Mr Cvetanovski, who was planning to visit Mr Cooper, be prevented from doing so. Ms Gobbo's controller, Mr Sandy White was notified and arrangements were then made with Detective Inspector Ryan and Detective Acting Senior Sergeant Kelly of Purana to have Mr Cvetanovski's visit disallowed. Later, further concern was raised by Ms Gobbo about Mr Cvetanovski sending in his wife and she was disallowed as well.⁵³⁰⁸
4165. Ms Gobbo continued to provide legal representation, welfare and support to Mr Cooper for years thereafter.
4166. Mr Cooper told the Commission that he had been convinced to assist by Victoria Police and Ms Gobbo. He said that he would not have agreed to co-operate if he had been spoken to by Victoria Police alone.⁵³⁰⁹ He said that Ms Gobbo gave him a 'sense of comfort and reassurance' so that he was encouraged to continue to co-operate with police beyond his arrest on 22 April 2006.⁵³¹⁰
4167. Mr Flynn had been fully aware of Ms Gobbo's role as a human source with Victoria Police, the investigation plan in relation to Mr Cooper, that Ms Gobbo had provided the information leading to his arrest, and that she had provided legal advice to Mr Cooper and Mr Cvetanovski in the circumstances outlined above.

Detectives Hayes' Knowledge of Ms Gobbo's Role

4168. Detective Senior Constable Craig Hayes was the informant in the Operation Posse brief against Mr Cvetanovski.

⁵³⁰⁴ Exhibit RC0281 ICR 3838 (033), 30 May 2006, 312, VPL.2000.0003.1898.

⁵³⁰⁵ Exhibit RC0281 ICR 3838 (034), 10 June 2006, 326, VPL.2000.0003.1912.

⁵³⁰⁶ Exhibit RC0281 ICR 3838 (035), 11 June 2006, 327, VPL.2000.0003.1913.

⁵³⁰⁷ Exhibit RC0281 ICR 3838 (036), 12 June 2006, 328, VPL.2000.0003.1914.

⁵³⁰⁹ Transcript of Mr Cooper, 31 October 2019, 8718, TRN.2019.10.31.01.

⁵³¹⁰ Transcript of Mr Cooper, 31 October 2019, 8719, TRN.2019.10.31.01.

4169. Mr Hayes was a member of the Purana Taskforce who worked in a crew led by Detective Sergeant Dale Flynn between 2005 and 2008. They had transferred from the MDID, along with others in their crew, following the recruitment of Ms Gobbo as a human source, and the resourcing of Operation Posse within Taskforce Purana.
4170. Mr Hayes was on leave at the time of Mr Cooper's arrest, but learned of his co-operation shortly after returning to work.⁵³¹¹ He was involved in seeking that '3838' be tasked in relation to Mr Cvetanovski in early 2007. Either by that time, or not long after, he learned that Ms Gobbo was a human source. Around the same time, Mr Hayes had also become involved in an investigation into anonymous threats being made to Ms Gobbo, known as Operation Gosford.⁵³¹²
4171. These matters were never disclosed to Mr Cvetanovski, the prosecution or the Court prior to or after Mr Cvetanovski's trial in 2011.

The first Posse trial

4172. On 7 April 2011, in the course of his cross-examination of Mr Cooper, counsel for Mr Cvetanovski raised issues relating to the nature of Mr Cooper's relationship with Ms Gobbo, for example:⁵³¹³
- 4172.1. [REDACTED], Mr Cooper was able to nominate Ms Gobbo as being a person who would be trusted to pass on money in satisfaction of a debt in relation to chemicals for use in drug manufacturing.⁵³¹⁴
- 4172.2. Ms Gobbo had access to Mr Cooper in the days following his arrest.⁵³¹⁵
- 4172.3. Ms Gobbo was involved in the planning of [REDACTED] [REDACTED] for which Mr Cooper had given her cash.⁵³¹⁶
- 4172.4. Mr Cooper had other social contact with Ms Gobbo including going out for drinks and dinners at restaurants.⁵³¹⁷
- 4172.5. In the absence of the jury, the trial judge queried Mr Pena-Rees as to the reason for this line of cross-examination. Mr Pena-Rees indicated that he proposed to ask Mr Cooper:

⁵³¹¹ Transcript of Mr Craig Hayes, 12 November 2019, 9088, TRN.2019.11.12.01.

⁵³¹² Exhibit RC0726 Statement of Craig Hayes, 25 July 2019, 7-8 [48]–[55], VPL.0014.0044.0001 @.0007.

⁵³¹³ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 349, OPP.0004.0004.0001 @.0540.

⁵³¹⁴ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 326, OPP.0004.0004.0001 @.0517.

⁵³¹⁵ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 341, OPP.0004.0004.0001 @.0532.

⁵³¹⁶ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 346, OPP.0004.0004.0001 @.0537.

⁵³¹⁷ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 349, OPP.0004.0004.0001 @.0540.

4172.5.1. Whether Ms Gobbo and Mr Cooper had collaborated to obtain him a favourable disposition in relation to upcoming sentencing.⁵³¹⁸

4172.5.2. Whether Mr Cooper was aware that Ms Gobbo was working with the police in relation to certain matters involving the Mokbels.⁵³¹⁹

4173. Following this, Mr Champion sought the leave of the court to seek instructions as to the matters raised prior to conducting his re-examination of Mr Cooper.⁵³²⁰

4174. It is apparent that Mr Hayes was not present in court during the cross-examination of Mr Cooper as there was an order for witnesses out of court.⁵³²¹

4175. Mr Hayes recorded in his diary that he had a debrief over lunch with Mr Champion:

*Lunch – debrief w J.C. Raised put by def re putting to Mr Cooper, Nicola Gobbo has supplied money to or siphoned money for Tony Mokbel. Inf same not aware of any such allegations but would make enq's...*⁵³²²

4176. Mr Hayes then spoke with Messrs Rowe and Coghlan who both said they had no knowledge of such matters.⁵³²³

4177. The next day, Mr Hayes spoke with [REDACTED] Graham Evans regarding the issues raised in cross-examination of Mr Cooper and Ms Gobbo. Mr Graham Evans told him he would speak to either Mr Sandy White or Mr Richards at the SDU and then make further contact. Shortly thereafter, Mr Hayes was contacted by Mr Peter Smith of the SDU, and explained the issues to him. Mr Peter Smith said he would speak to Mr Richards about the matter.⁵³²⁴ Following this, Mr Hayes spoke with Mr Pearce and explained the 'Gobbo issues'. He said that Mr Champion intended to hold a briefing about the matter and 'seek out leave to be specific'.⁵³²⁵ At the time Mr Pearce was on secondment to the SDU.⁵³²⁶

4178. Mr Hayes told the Commission that he had raised the matter with these others because they were the people that dealt with source material, and the issue of concoction of statements had come to the fore. He regarded it as an

⁵³¹⁸ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 351, OPP.0004.0004.0001 @.0542.

⁵³¹⁹ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 352, OPP.0004.0004.0001 @.0543.

⁵³²⁰ Transcript of Proceedings, *DPP v Cvetanovski* (County Court of Victoria, CR-07-02867, Montgomery J, 7 April 2011), 365, OPP.0004.0004.0001 @.0543.

⁵³²¹ Exhibit RC0727 Detective Sergeant Craig Hayes diary, 8 April 2011, 47, VPL.0005.0157.0079 @.0125.

⁵³²² Exhibit RC0727 Detective Sergeant Craig Hayes diary, 7 April 2011, 46, VPL.0005.0157.0079 @.0125.

⁵³²³ Exhibit RC0727 Detective Sergeant Craig Hayes diary, 7 April 2011, 46, VPL.0005.0157.0079 @.0125.

⁵³²⁴ Exhibit RC0727 Detective Sergeant Craig Hayes diary, 7 April 2011, 46, VPL.0005.0157.0079 @.0125.

⁵³²⁵ Exhibit RC0727 Detective Sergeant Craig Hayes diary, 7 April 2011, 46, VPL.0005.0157.0079 @.0125.

⁵³²⁶ Exhibit RC1416 Statement of Pearce, 14 February 2020, 2 [1], COM.0106.0001.0001 @0002.

issue for them to be informed of and to make a decision about. When asked if he was seeking guidance in relation to whether there had been any concoction, Mr Hayes said he was not seeking guidance of that kind, and that there had been no concoction. It was put to Mr Hayes that knowing what he knew of Ms Gobbo's dual role with the police and Mr Cooper, he must have had concern that Mr Pena-Rees assertions of a corrupt relationship were not far off the mark. Mr Hayes said that he was simply dealing with an allegation of the concoction of statement. When asked what he thought about the need for disclosure of Ms Gobbo's dual role, Mr Hayes said this was what led him to advise those with more experience than himself.⁵³²⁷

4179. On 10 April 2011, Mr Flynn spoke with Mr Hayes about the Cvetanovski trial. Mr Hayes told Mr Flynn that Mr Cooper had only begun his evidence and Mr Flynn's evidence was not anticipated until the end of the week. Mr Hayes also told Mr Flynn that he was required to attend a meeting with Mr Champion.⁵³²⁸

4180. On 11 April 2011, Mr Hayes told Mr Flynn that the meeting with Mr Champion about 'Gobbo issues etc' would possibly occur later that afternoon.⁵³²⁹

4181. That afternoon, a conference took place which was attended by:

4181.1. Mr Champion and his instructing solicitor from the OPP.

4181.2. Messrs Hayes, Flynn and Pearce from the police.

4182. Mr Flynn's diary note of the meeting reads:

1615 27th floor, 200 Queen St, Melb

- *Barrister: John Champion*
- *OPP: Bosso*
- *Inf't: Craig Hayes*
- *Wit: Pearce*
- *& I*

Discussed defence allegations re:

- *[REDACTED]. May require legal advice*
- *Conspired w/ Cooper to set S.Cvet up.*
- *NG – Consp w Cooper (and/or police) to make false statements*
- *Contact between Gobbo & Cooper after arrest*
- *Discussed calling NG as witness*
- *Will know by end of tomorrow (after Cooper finishes evidence)*⁵³³⁰

4183. Mr Hayes' diary note of the meeting reads:

⁵³²⁷ Transcript of Detective Sergeant Craig Hayes, 12 November 2019, 9117-9119, TRN.2019.11.12.01.C.

⁵³²⁸ Exhibit RC0560 Inspector Dale Flynn diary, 10 April 2011, 216, RCMP1.0062.0002.0003 @.0003-.0108.

⁵³²⁹ Exhibit RC0560 Inspector Dale Flynn diary, 11 April 2011, 216, RCMP1.0062.0002.0003 @.0003-.0108.

⁵³³⁰ Exhibit RC0560 Inspector Dale Flynn diary, 11 April 2011, 109-110, RCMP1.0062.0002.0003 @.0109-.0110.

1620 C5 J.C. Chambers – 200 Queen St, IMC re: issues raised re: Gobbo. Also pres D/S/Sgt Flynn, David (OPP) + Officer Pearce.

Defence allege Gobbo, Cooper, [REDACTED] + police conspired to concoct statements against Cvet. Pena-Rees making claims off the back of media articles re: Gobbo + Paul Dale.

Claims Gobbo gave money to Tony Mokbel as well Cooper giving money to Gobbo to pay “Wheat” for party re: [REDACTED] [REDACTED].

All allegations appear speculative w Pena-Rees acting on what client (Cvet) has told him.

At this point statements only made in front of judge. Jury + Cooper have not heard same yet.

Consideration to be given to how to approach same, if at all. Pena-Rees has stated he will put same to witness in presence of jury.

1800 Meeting concluded⁵³³¹

4184. Mr Pearce reported the meeting in an email to Mr O’Connor the following afternoon:

1615 hrs 11/04/11 attended with Dale Flynn and Craig Hayes at a meeting with John Champion, prosecutor in the Cvetanovski County Court trial. Purana Taskforce Operation Waugh⁵³³² refers.

Champion was concerned with comments made by the defence barrister, Michael Pana-Rees (sic), surrounding Nicola Gobbo, Cooper and Victoria Police. Champion expects that the defence are going to paint a picture of a conspiracy to pervert by Police, Gobbo and Cooper.

The comments have only been made before Judge Montgomery in the absence of the jury at this stage and have not been put to any witnesses yet.

Comments include but not limited to the following;

- Cooper new (sic) that Gobbo was working with Police in matters involving Mokbels and stated that he will have to explore that.
- Gobbo was acting as an agent for Police against Dale and Meichel (sic)
- Gobbo paid cash given to her by Cooper for a party at Wheat restaurant attended by Mokbel syndicate members
- Gobbo and Cooper collaborated on statements made by Cooper to get a lessor (sic) sentence
- Cooper was asked to turn [REDACTED]
- Cooper was taken to a disused Police Station to make statements

⁵³³¹ Exhibit RC0727 Detective Sergeant Craig Hayes diary, 11 April 2011, 185, VPL.0005.0157.0079 @.0128.

⁵³³² Mr Pearce likely meant Operation Posse, which was the trial then running. Operation Waugh related to the earlier trial of Mr Cvetanovski.

- *Cooper was aware that Gobbo was co-operating with Police*

If and when these matters are put to Cooper and other witnesses Champion can do one of three things,

1 Ask Cooper

2 Ask Flynn

3 Call Gobbo

Champion has decided not to call Gobbo but the defence could still subpoena her

A suppression order is in place surrounding all things Mokbel pending his drug trials later this year.

NOTE: PANA-REES (sic) is an ex Vic Pol Fraud Squad detective.⁵³³³

4185. The following day, on 12 April 2011, at 12:09pm, Mr Pearce spoke with Mr Richards at the SDU. Mr Richards had been a controller at the SDU, albeit not Ms Gobbo's main controller, during the period of Ms Gobbo's registration as a human source. Mr Richards recorded his conversation with Mr Pearce in his diary:

Call Officer Pearce Re: Cvetanvoski trial – being brought up that the defence are going to allege that 2958 was acting in a conspiracy with Cooper against the def. that 2958 was helping police to dismantle the Mokbel family. Will bring up against Flynn, Mr Cooper or call 2958 as a witness – acted inappropriately.⁵³³⁴

4186. At 3:39pm, after Mr O'Connor received Mr Pearce's email as referred to earlier, he forwarded it to Mr Sheridan indicating, 'For discussion'.⁵³³⁵
4187. Mr O'Connor's diary indicates that at 4:00pm he met with Mr Sheridan 're Witness F + current court matter where Witness F may be called'.⁵³³⁶
4188. At 4:02pm, Mr Pearce sent a further email to Mr O'Connor, which was forwarded to Mr Sheridan at 4:07pm:

Cooper has finished giving his evidence after three days in the witness box. None of the anticipated allegations were put to him. Yet to be seen what will be put to other witnesses inc Flynn and Hayes.⁵³³⁷

4189. It is apparent that defence did not raise the issue in relation to Ms Gobbo's relationship with police as they had initially indicated they would.

⁵³³³ Exhibit RC0853 Email from Pearce to John O'Connor forwarded to Paul Sheridan, subject "Witness F", 12 April 2011, VPL.0005.0013.1295.

⁵³³⁴ Exhibit RC0601 Mr Richards diary, 12 April 2011, 4 (VPL.0099.0010.0014, P.4); Transcript of Richards, 23 October 2019, 7996.

⁵³³⁵ Exhibit RC0853 Email from Pearce to John O'Connor forwarded to Paul Sheridan, subject "Witness F", 12 April 2011, VPL.0005.0013.1295.

⁵³³⁶ Exhibit RC0808 Superintendent John O'Connor diary, 12 April 2011, VPL.0005.0186.0009.@0013.

⁵³³⁷ Exhibit RC0853 Email from Pearce to John O'Connor forwarded to Paul Sheridan, subject "Witness F", 12 April 2011, VPL.0005.0013.1295.

4190. The jury in this trial were discharged before verdict. A second trial was conducted and the issue did not arise again.

Evidence Given in Respect of the Matter

Mr Hayes

4191. Mr Hayes' evidence to the Commission was to the effect that he did not discuss with Mr Champion any concerns he had about Ms Gobbo's dual role as human source and lawyer to Mr Cooper. Rather, he dealt with the issue as being strictly a question as to whether there had been any concoction of statements, which in his view there had not been.

Mr Flynn

4192. Mr Flynn agreed that given the length of the meeting with Mr Champion, there had been considerable discussion of the allegations which had been put on behalf of Mr Cvetanovski. Mr Flynn said he did not believe Mr Champion had asked him specific questions about the allegations that had been made. He said he could only be guided by his notes as to what had occurred at the meeting. It was suggested to Mr Flynn that Mr Champion would have been seeking answer as to the veracity of the allegations being made by Mr Pena-Rees:

MR WINNEKE: In any event those allegations, I suggest, would have been put to you? You were there for an hour and a half?

MR FLYNN: They possibly could have been.

MR WINNEKE: Yes. And I suggest to you that almost certainly it would have been asked of you whether the police were acting in concert with Ms Gobbo?

MR FLYNN: I don't recall him asking me that question.

MR WINNEKE: Well, do you recall him asking you questions to that effect, you know, "Were you, did Ms Gobbo, was she assisting you, or was she helping you"?

MR FLYNN: I don't, I don't believe he was that specific.

MR WINNEKE: No?

MR FLYNN: In relation to questions, I just - you know, I'm very much guided by my notes and just, I recall it as being alerted to the fact.

MR WINNEKE: Yes. What was being alleged was that Ms Gobbo was in an arrangement or an agreement with [Mr Cooper] and/or the police, right?

MR FLYNN: Yes.

MR WINNEKE: What your notes say is that you discussed these defence allegations, one of which was that Ms Gobbo was in an agreement with [Mr Cooper] and/or, so, and, or, the police?

MR FLYNN: Yes.

MR WINNEKE: *I suggest to you that that note makes it quite plain that Mr Champion was asking you whether or not Nicola Gobbo was acting in an agreement with the police?*

MR FLYNN: *I'm not going to sit here and admit to something that I don't recall. I don't recall specifically getting that question.*

MR WINNEKE: *Right?*

MR FLYNN: *I do remember attending this meeting, I do remember being alarmed by it.*

MR WINNEKE: *Why were you alarmed?*

MR FLYNN: *Because it was obviously heading towards divulging Ms Gobbo's role as a human source.*

MR WINNEKE: *Exactly. Why didn't you divulge - - - ?*

MR FLYNN: *For that reason.*

MR WINNEKE: *Why?*

MR FLYNN: *Because she was a human source.*

MR WINNEKE: *Did you get any advice from anyone before you went to this meeting?*

MR FLYNN: *I was just back from leave so I don't, I do have a note on the Sunday that I had a telephone conversation with Detective Senior Constable Hayes.*

MR WINNEKE: *Yes?*

MR FLYNN: *But Monday was my first day back from leave so I don't know if I was fully aware of the issues until I got to the meeting.*

MR WINNEKE: *Okay. So I want to put this proposition quite clearly. Mr Champion had been in front of a court, County Court judge where allegations had been put that Ms Gobbo was acting in concert with police and/or [Mr Cooper]?*

MR FLYNN: *Yes.*

MR WINNEKE: *With a view to making false statements?*

MR FLYNN: *Yes.*

MR WINNEKE: *Right. So insofar as those two concepts were put together you would be entitled to say, "Look, that's not right, we were not in any arrangement to concoct false statements"?*

MR FLYNN: *Yes.*

- MR WINNEKE: *Right. But what you did know is that Mr Pena-Rees was very close to the mark?*
- MR FLYNN: *Yes, I did.*
- MR WINNEKE: *And can I suggest to you that it would have been – I withdraw that. That Mr Champion would have asked you is there any truth, or words to this effect, in the allegation that Ms Gobbo was acting in accordance or with the knowledge of the police?*
- MR FLYNN: *I don't recall him asking me in that sense, no. I think - - -*
- MR WINNEKE: *In what sense do you believe you were asked about what had occurred?*
- MR FLYNN: *I believe that he just raised that this is the allegation that's been made and he made mention that he was considering calling Ms Gobbo as a witness.*
- MR WINNEKE: *Yes. And what did you say with respect to that suggestion?*
- MR FLYNN: *I can't remember what I answered to him. I think that it was something that was obviously fairly serious.*
- MR WINNEKE: *Yes?*
- MR FLYNN: *And something that I would need to get advice on or sort out at a higher level within Victoria Police.*
- MR WINNEKE: *And did you do so?*
- MR FLYNN: *Well I've just looked through my notes. Certainly Mr O'Brien had left the organisation at that stage. I did speak with the Inspector of the unit I was working for but I've got no entry about discussing it with him. So it might have been that I've contacted the SDU.*
- MR WINNEKE: *Yes?*
- MR FLYNN: *But my recollection is that, that it didn't seem to be pursued in any way, so I didn't hear any further about it.*
- MR WINNEKE: *Right. Well it would be - if Ms Gobbo was called as a witness and put into the witness box and asked questions, you could bet your bottom dollar that Mr Pena-Rees would put her in a position where either she told the truth and revealed the fact that she was an informer?*
- MR FLYNN: *Yes.*
- MR WINNEKE: *Or she would have to tell a lie?*

- MR FLYNN: Yes, I certainly remember being alarmed by it, yes.*
- MR WINNEKE: Indeed if the court found out what had gone on, if Mr Champion had been told the truth as to what had occurred with respect to Ms Gobbo, then it would have been brought to the attention of the court and then there'd be a real possibility that the evidence of [Mr Cooper] might be thrown out or at least there would be an argument that the evidence of [Mr Cooper] ought be excluded?*
- MR FLYNN: I don't know if I thought about it in that much detail but I was certainly alarmed by the fact that her role as a human source could be, become public knowledge.*
- MR WINNEKE: But you would have been aware that Mr Pena-Rees was making allegations that the police were acting in concordance with Ms Gobbo. That was an essential part of the allegation that was being put?*
- MR FLYNN: That's in my diary.*
- MR WINNEKE: Yes. Should not Mr Cvetanovski, who was then being tried and the subject of possible incarceration and eventual incarceration for 11 years, have had the opportunity to properly ventilate what was going on in his trial?*
- MR FLYNN: Well, that's probably, that's probably for people at a higher level than me to discuss. My immediate concern was, well, and I'm actually not even sure if she was acting as a human source, my immediate concern was this is alarming, she may be discovered as her role as a human source, and yeah, I needed to seek advice in relation to that.*
- MR WINNEKE: It's alarming that she may be discovered as a human source, but is it alarming that potentially a person who is in the dock may not get a fair trial and might be convicted when perhaps he oughtn't be on the basis of evidence that was improperly obtained?*
- MR FLYNN: Well that's something I look back now and say, yes, but I don't think it was a consideration at the time.*
- MR WINNEKE: That might be cold comfort to Mr Cvetanovski who has been doing time?*
- MR FLYNN: That's the way it is.⁵³³⁸*

4193. It was put to Mr Flynn following this that he would have considered the need for legal advice, and if he was not prepared to tell Mr Champion, then he would have had recourse to legal advice within the police force. Mr Flynn agreed he could have done this, however said he did not as the issue died away. He said he did not consider the issue in terms of the consequences to Mr Cvetanovski's trial, he was mainly concerned that Ms Gobbo was not revealed to be a human source.⁵³³⁹

4194. It was further put to Mr Flynn:

MR WINNEKE: Can I suggest to you that whilst Mr Pena-Rees was making allegations of a conspiracy between [Mr Cooper], the police and Ms Gobbo to concoct statements, in fact there was a conspiracy going on and it was a conspiracy of silence on the part of Victoria Police not to reveal what they had done?

MR FLYNN: No, I wouldn't agree with that.

MR WINNEKE: And had you taken what can only be regarded as the sensible course and sought legal advice, it may well be that this person might have got a fair trial, I suggest?

MR FLYNN: Well, that's, in hindsight that's probably correct.⁵³⁴⁰

Mr Richards

4195. Mr Richards accepted that these events would have been concerning given that it was going to be alleged that Ms Gobbo had acted inappropriately and 'cooked up' evidence against Mr Cvetanovski, that there was a suggestion she would be called at trial to answer the allegations which may have led to her exposure. He also accepted that these issues were occurring in the context of the SDU having previously raised concerns that exposure of Ms Gobbo could give rise to the SDU being the subject of inquiry and convictions being reviewed.⁵³⁴¹

4196. Whilst the diary produced to the Commission was redacted, Mr Richards said in evidence that it revealed that he had called Mr O'Connor the following day. The entry read, '17:56, call back JOC, update re compilation IR travel details' and referred to a location where Mr Richards was deploying a source. It made no mention of Mr Richards having discussed the issue related to Ms Gobbo. Mr Richards said he assumed he would have conveyed the information to Mr O'Connor as told to him by Mr Pearce, although he'd not made any note of it.⁵³⁴² It is apparent Mr O'Connor was already aware of the issue.

⁵³³⁹ Transcript of Mr Dale Flynn, 3 October 2019, 7206 [39] – 7208 [1], TRN.2019.11.10.01.C.

⁵³⁴⁰ Transcript of Inspector Dale Flynn, 3 October 2019, 7208 [12] – [22], TRN.2019.11.10.01.C.

⁵³⁴¹ Transcript of Mr Richards, 23 October 2019, 7998-7999, TRN.2019.10.22.01.P.

⁵³⁴² Transcript of Mr Richards, 23 October 2019, 7997-8000, TRN.2019.10.22.01.P.

Mr Pearce

4197. Mr Pearce provided a statement to the Commission in which he said he had seen a note in his SDU electronic diary indicating he attended the meeting with Messrs Champion, Flynn and Hayes regarding Ms Gobbo. He said he did not remember what the meeting was about and could not be certain he knew Ms Gobbo was a source at the time.⁵³⁴³
4198. Mr Pearce was working at the SDU at the time. The very reason he was at the meeting was that Ms Gobbo had been a human source. The very reason for his email report up the line to Mr O'Connor (and for Mr O'Connor to Mr Sheridan) was to plan for the repercussions should Ms Gobbo be exposed. It is apparent from his reference to the pending Mokbel drug trials that it was considered that Ms Gobbo's exposure would have an impact on those trials.

Mr O'Connor

4199. Mr O'Connor said that he did not recall what he discussed with Mr Sheridan at the meeting, or whether he did anything beyond speaking with Mr Sheridan. He said he was not aware of the charges related to Mr Cvetanovski, nor was he involved in the prosecution. He believed the email was sent to him because of his role as the Victoria Police point of contact for Ms Gobbo following the civil litigation.⁵³⁴⁴
4200. This latter point could not be correct. The SDU, of which Mr O'Connor was the OIC, had become involved because of concern over the repercussions of Ms Gobbo's exposure as a human source. Mr Pearce, a member of the SDU, who was not a witness in the matter, was sent along to the meeting in order to report such matters, which is what he did.
4201. In his evidence to the Commission, Mr O'Connor conceded that the ultimate outcome was that there had been no disclosure in the proceeding of Mr Cvetanovski as to the relationship between Ms Gobbo, Mr Cooper and Victoria Police; essentially the defence moved on and the matter was not pressed.⁵³⁴⁵

Mr Sheridan

4202. Mr Sheridan stated that he had been shown the emails sent to him on 12 April 2011 and did not recall them, or whether he did anything in response to the emails.⁵³⁴⁶
4203. Mr Sheridan said he was not aware as to what informed Mr Champion's decision not to call Ms Gobbo.⁵³⁴⁷

⁵³⁴³ Exhibit RC1416 Statement of Mr Pearce, 14 February 2020, 3-4 [12], 5 [20], COM.0106.0001.0001 @.0012, .0020.

⁵³⁴⁴ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 17 [98]-[100], VPL.0014.0077.0001.

⁵³⁴⁵ Transcript of Superintendent John O'Connor, 27 November 2019, 9946-9947, TRN.2019.11.27.01.P.

⁵³⁴⁶ Exhibit RC0835 Statement of Detective Superintendent Paul Sheridan, 12 November 2019, 10 [54], VPL.0014.0087.0001 @.0010.

⁵³⁴⁷ Transcript of Detective Superintendent Paul Sheridan, 5 December 2019, 10608, 10609, VPL.0014.0087.0001.

Submissions concerning Non-Disclosure in the Cvetanovski Trial

4204. An analysis as to the ways in which Mr Cvetanovski's case may have been affected is contained in Volume 3. The following submissions may be read in conjunction with that analysis.
4205. On 19 May 2020, following the exposure of Ms Gobbo's role as a human source, Mr Cvetanovski was granted bail by the Court of Appeal, pending his appeal. He has spent more than 10 years in prison.⁵³⁴⁸
4206. As set out above, the prosecutor in the trial of Mr Cvetanovski, Mr Champion, had specifically called a meeting to discuss issues relating to Mr Pena-Rees puttage. Whilst the allegations which Mr Pena-Rees was raising did not exactly describe the manner in which Mr Cooper's assistance had been obtained, and Ms Gobbo and Victoria Police's conduct in that matter, it is submitted that it came very close to doing so. It is submitted that the evidence demonstrates that by this time, if not before, it was clear to investigators Flynn and Hayes that Ms Gobbo's relationship with the police and Mr Cooper was a relevant issue in the trial of Mr Cvetanovski.
4207. The SDU again became involved in a court process where there was a risk of exposure of Ms Gobbo's role as a human source. Those briefed in that respect included Messrs Sheridan, O'Connor, Richards, Peter Smith and Pearce. It is submitted that all were aware of Ms Gobbo's dual role as Mr Cooper's lawyer and human source for the police.
4208. It is further submitted that given their training and experience, all would have known:
- 4208.1. that disclosure of the true nature and extent of Ms Gobbo's role would have jeopardised the admissibility of the evidence against Mr Cvetanovski; and
- 4208.2. that if such material were to be lawfully withheld, a public interest immunity claim would need to be made and determined by the Court.
4209. When asked questions concerning the hypothetical reaction of a judge who found out the true state of affairs, Mr Flynn agreed that potentially 'his or her wig might have hit the roof'. He said: 'Well, we knew it would create a lot of issues'.⁵³⁴⁹ It is submitted that the reluctance on the part of Mr Flynn, and others who were similarly motivated, to submit the question of Ms Gobbo's role as a human source to a court for a judge to determine the PII question should be considered in the light of those answers.⁵³⁵⁰ It is submitted that their reluctance was not simply borne of concern that Ms Gobbo might be put at risk of harm by exposure, but also there would be significant criticism of police and the potential for evidence to be ruled inadmissible.
4210. Since the prosecution's main witness, Mr Cooper, was also unaware of Ms Gobbo's dual roles, no doubt it would also have been concerning to them that in the event of her dual roles being exposed, Mr Cooper might himself

⁵³⁴⁸ Exhibit RC1840 *Cvetanovski v The Queen* [2020] VSCA 126.

⁵³⁴⁹ Transcript of Inspector Dale Flynn, 1 October 2019, 6946 and 6967, TRN.2019.10.01.01.C

⁵³⁵⁰ Transcript of Inspector Dale Flynn, 1 October 2019, 6965-6966, TRN.2019.10.01.01.C

have discovered that he had cause to challenge his own conviction. This may have led him to refuse to assist the police any further.

4211. Given their knowledge of the manner in which the SDU and Purana had utilised Ms Gobbo, and the potential impropriety thereof, it is submitted that it is a matter that they should have insisted legal advice be obtained, so that the lawfulness and propriety of Victoria Police's conduct, which was potentially relevant to a case then being heard, could properly be considered.

4212. **On the evidence, it is open to the Commissioner to find that, given what they knew in April 2011 (as set out above), each of Messrs Flynn, O'Connor, Hayes, Sheridan, Pearce and Richards should have:**
- 4212.1. **ensured that Ms Gobbo and Victoria Police's conduct in relation to Mr Cooper's decision to assist police was disclosed to the prosecutor in Mr Cvetanovski's trial; or**
- 4212.2. **ensured that the relevant conduct was otherwise disclosed to the Court so that a claim of public interest immunity could have been heard and determined.**

18 April 2011 – Tony Mokbel Pleads Guilty

4213. Notably, the report that Mr Pearce emailed to Mr O'Connor, which had also been forwarded to Mr Sheridan, indicated an appreciation that the exposure of Ms Gobbo's roles would have consequences for the trial of Mr Tony Mokbel, which was scheduled later that year.⁵³⁵¹
4214. Less than a week later, on 18 April 2011, Mr Tony Mokbel entered pleas of guilty to a number of charges following negotiation in relation to the withdrawal of a number of other charges against him.⁵³⁵² This received significant media attention.
4215. No disclosure had been made to Mr Tony Mokbel, nor did anyone within Victoria Police contemplate informing the prosecution or obtaining legal advice as to issues of public interest immunity.

Late April 2011 – Assistant Commissioner (Crime) Ashton

4216. In late April 2011, Mr Ashton commenced as Assistant Commissioner (Crime) at Victoria Police. In this position Mr Ashton had command of the Crime Department's various squads and taskforces, including the Purana, Briars and Driver Taskforces. Mr Ashton sat on the Driver Taskforce Steering Committee, which was chaired by Mr Jeff Pope, Assistant Commissioner, I&CS.

⁵³⁵¹ Exhibit RC0853 Email from Pearce to John O'Connor forwarded to Paul Sheridan, subject "Witness F", 12 April 2011, VPL.0005.0013.1295.

⁵³⁵² *R v A Mokbel (sentence)* [2012] VSC 255.

Late June 2011 – Ashton & McRae Aware Gobbo Wants to Prevent Disclosure

4217. In late June 2011, Mr Ashton had a copy of a letter which had been written to Mr Overland by Mr Solomon at the request of Ms Gobbo in January 2010. Mr Ashton provided the letter to Mr McRae on 28 June 2011. The letter included the following passage:

*She wants to enter the witness protection program so that the prosecution will receive the legislated protections against discovery relating to materials called for via defense [sic] subpoena. Such materials she claims if produced would place her life in grave danger. She alludes to her cooperation with other Major Organised Crime investigations in the past but does not give me specifics.*⁵³⁵³

4218. Mr Ashton had been aware during his time at the OPI that Ms Gobbo had been a human source registered by the SDU, and in that role had assisted both the Petra and Briars Taskforces. Mr Ashton's evidence to the Commission was that he only became aware in around November 2011 that investigators from the Purana Taskforce had been receiving intelligence from Ms Gobbo's handlers relating to organised crime figures in Melbourne.⁵³⁵⁴

4219. **On the evidence, it is open to the Commissioner to find that, whilst Mr Ashton may have only received positive confirmation of the extent of Ms Gobbo's involvement with Victoria Police as a human source later in the year, in late June 2011 Mr Ashton should have:**

4219.1. **satisfied himself that the use of Ms Gobbo by Victoria Police had been lawful and appropriate; and**

4219.2. **ensured that disclosure obligations to that point had been lawfully met.**

That is so, because of:

4219.3. **his awareness of Ms Gobbo's profession and the nature of her clientele**

4219.4. **his awareness of her previous status as a human source who was handled by the SDU, and the length of time over which she had been a human source**

4219.5. **his awareness that Ms Gobbo had assisted both the Petra and Briars Taskforces as a human source**

4219.6. **the reference in Mr Solomon's letter to Ms Gobbo having potentially also assisted police in 'Major Organised Crime investigations'**

4219.7. **the fact that she had assisted the Petra Taskforce in her status as a human source, and therefore that material would be held by Victoria Police relevant to those matters**

⁵³⁵³ Exhibit RC088 Letter from Solon (Sol) Solomon to Simon Overland (undated) with handwritten note from Findlay McRae, 28 June 2011, VPL.0005.0003.3042.

⁵³⁵⁴ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 9 [85], GLA.0006.0001.0001 @.0009.

- 4219.8. **the fact that such matters must not have been disclosed in the previous committal proceedings in respect of the Dale murder prosecution**
- 4219.9. **the fact that there appeared to be a desire to shield such matters from disclosure**
- 4219.10. **the oath that he swore and the responsibilities that he acquired when he became an Assistant Commissioner of Victoria Police.**

24 August 2011 – The Tomato Tins Disclosure Issue

Background

4220. In mid 2007, Ms Gobbo, in the course of representing Mr Rabie (Rob) Karam in a trial had been given documents by him to hold on to. Ms Gobbo copied the documents and provided them to police. Subsequently, as Ms Gobbo says, the world's biggest importation of ecstasy was located and seized by law enforcement authorities. Victoria Police and Federal authorities were involved in investigations into Mr Karam and others. Ms Gobbo had been providing information about Mr Karam since almost the time of her registration, and actively provided information about he and his associates after the shipping container had been seized.
4221. Between August 2008 and April 2009, approximately 33 individuals were arrested and charged with various offences related to three drug-related operations which were conducted by the AFP, Victoria Police, the Australian Customs Service and the Australian Crime Commission. The charges related to matters arising from Operation Bootham Moko, which involved the importation of MDMA in tomato tins (the Tomato Tins prosecution), and Operation Inca which included a conspiracy to import cocaine in a shipment of coffee beans.⁵³⁵⁵
4222. Those arrested included Messrs Rabie Karam, Pasquale Barbaro, John Higgs, Salvatore Agresta and Pasquale Sergi whose jury trial in relation to the Tomato Tins prosecution commenced in the Supreme Court in late February 2012, and in which they were convicted on 24 May 2012 and sentenced on 30 April 2013.⁵³⁵⁶
4223. Mr Karam underwent a further trial in relation to charges relating to Operation Inca in which he was convicted in November 2014. Many others charged in relation to these matters pleaded guilty, underwent trials, and were sentenced and imprisoned over this period.

24 August 2011 – Gobbo Meeting with the CDPP

4224. On 24 August 2011, Ms Gobbo, Mr Buick and Detective Sergeant Jason Lebusque attended a meeting at the CDPP, with Deputy Director Shane Kirne, and solicitors Ms Krista Breckweg and Ms Vicki Argitis. Unbeknownst to the non-police members present, Mr Buick recorded the meeting. During

⁵³⁵⁵ See Tomato Tins and Related Proceedings Case Reviews.

⁵³⁵⁶ *DPP v Karam and others* [2013] VSC 133.

the meeting, Ms Gobbo raised various matters which she claimed made it difficult for her to give evidence, including an oblique reference to the Tomato Tins prosecution:

MS BRECKWEG: If they do issue a subpoena ---

MS GOBBO: I don't want to talk cryptically, but it's maybe a conversation for another day. But it affects matters that are being prosecuted by your office at the moment.

MS BRECKWEG: Okay.

MS GOBBO: Very significant matters.

MS BRECKWEG: I think I know what you're talking about, just a rough guess – you're view is that it's not just the threat from Dale – but the threat from other people.

MS GOBBO: Yeah.

MS BRECKWEG: Well, that's something we have to take very seriously.⁵³⁵⁷

4225. After leaving the meeting, Ms Gobbo had a further conversation with Mr Buick:

MR BUICK: Can you just tell me, though, 'cause ---

MS GOBBO: Yeah.

MR BUICK: --- I'm not as clever as, you know, the rest of you. What's the current prosecution that is – is the issue?

MS GOBBO: World's biggest ever importation of ecstasy.

MR BUICK: And who's up on that?

MS GOBBO: Higgs, Karam, Barbaro. They highest level of organised crime dealers.

MR BUICK: So they've all ---

MS GOBBO: Now, you – I can tell you, you – you, but the ACC, and VicPol and the AFP didn't have a clue about that. I had the shipping documents. I got my hands on them and that's how you found the world's biggest ever single seizure of ecstasy in the world. Now you think I'm going to risk those people finding out – no fucking way.⁵³⁵⁸

⁵³⁵⁷ Exhibit RC0679 Transcript of conversation between Ms Nicola Gobbo, Boris Buick, Jason Lebusque and CDPP, 24 August 2011, 118, VPL.0100.0068.0644 @.0761.

⁵³⁵⁸ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 24 August 2011, 139, VPL.0100.0068.0644 @.0782.

4226. Around this time Mr Cartwright confirmed arrangements for the management and oversight of the Driver Taskforce, which was to be overseen by a Steering Committee consisting of:

- Assistant Commissioner (Crime), Mr Ashton, who was to be Chair
- Assistant Commissioner (I&CS), Mr Pope
- Assistant Commissioner (ESD), Mr Emmett Dunne
- Superintendent Operations Tasking and Coordination (Crime), Mr Doug Fryer
- Inspector, Driver Taskforce, Mr Mick Frewen.

4227. Mr Cartwright stated that he was the Executive Sponsor of the Driver Taskforce and did not routinely attend meetings, rather he was regularly briefed by its Chair.⁵³⁵⁹

4228. Later on 24 August 2011, Deputy Commissioner Cartwright met with Assistant Commissioner (Crime) Graham Ashton in relation to Taskforce Driver. During the meeting, Mr Cartwright was briefed in relation to a number of investigations being conducted, as well as the Dale ACC prosecution. Mr Cartwright's note about that matter was:

Gobbo – C/W DPP: perjury before ACC

- *Gobbo key witness*
- *Associating with Robbie Karam (Cocaine 240 kilo).*⁵³⁶⁰

4229. In a conversation with Mr Buick some time later, Ms Gobbo told Mr Buick that she rang Ms Breckweg on 25 August 2011 and told her 'straight out' that she was an informer. Ms Gobbo said that she didn't tell her the names of cases, rather she told her 'There is a massive prosecution on foot with the Commonwealth DPP at the moment which would not be on foot but for me.'⁵³⁶¹

4230. On 26 August 2011, Mr Buick spoke further with Ms Gobbo about the Tomato Tins prosecution. She explained how she had worked with Mr Sandy White, the information she provided to the SDU during that period, and how the police had fed the information to Customs in order that the AFP would believe they had of their own accord located the shipping container containing the drugs. Ms Gobbo referred to her representation of Mr Karam at the time of the importation, in which period she was also informing against him. Ms Gobbo said she was not going to put herself in a situation where she might be asked questions about such matters in the witness box.⁵³⁶²

⁵³⁵⁹ Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 3-4 [26-27], VPL.0014.0121.0001 @.0003.

⁵³⁶⁰ Exhibit RC1275 Cartwright Driver Taskforce File, 24 August 2011, 51, VPL.0100.0013.0053 @.0103.

⁵³⁶¹ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 8-10, VPL.0100.0068.0794 @.0801-.0803.

⁵³⁶² Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 26 August 2011, 17-22, 35-36, VPL.0100.0068.0884 @.0900-.0905, .0918-0919; Transcript of Inspector Boris Buick, 1 November 2019, 8849-8851, TRN.2019.11.01.01.P.

Late August 2011 – Buick Seeks Legal Advice

4231. On 31 August 2011, Mr Buick raised the need for legal advice following this time in relation to anticipated subpoenas and his concerns this might require disclosure of material relating to Ms Gobbo's history as a human source in the Dale ACC prosecution. He prepared a document setting out the background and issues involved in the case.⁵³⁶³
4232. On 1 September 2011, Ms Breckweg emailed Mr Buick indicating that she had spoken to Ms Gobbo again. Ms Gobbo had stressed concern for her safety should her previous dealings with Victoria Police be exposed in evidence. Ms Gobbo had stated her belief that if a subpoena was issued she would need to be in the Witness Protection Program in order to use provisions of the WPA that would effectively prevent the defence from questioning her about prior police involvement.⁵³⁶⁴
4233. On 4 September 2011, Mr Buick recorded a meeting with Ms Gobbo. During the conversation:
- Mr Buick told Ms Gobbo that he had asked that she be removed as a witness, however the CDPP were of the view they wanted the best evidence supporting their case, and that they were not across Ms Gobbo's relationship with Victoria Police
 - Mr Buick said that discussions occurring within Victoria Police as to whether the CDPP should be made aware, and that if that background was going to be provided to the federal authorities, it may be given at the Assistant Commissioner level to a counterpart in Canberra
 - Mr Buick said that it was the view of a number of people within Victoria Police that to discuss or refer to Ms Gobbo in any way shape or form during the Dale ACC prosecution, or any other prosecution, would likely lead to the exposure of her role as a human source
 - Ms Gobbo indicated that one of the motivating factors in her making the statement against Mr Dale was that if she did not, it might be thought she was involved in arranging the murder of the Hodsons.⁵³⁶⁵
4234. Mr Buick told the Commission that the discussions he was having about withdrawing the matter were with his superiors, Messrs Frewen and Fryer.⁵³⁶⁶ He said that there was discussion going on within Victoria Police about what reasons would be given to the CDPP for withdrawing Ms Gobbo as a witness, which would result in the withdrawal of at least some of the case against Mr Dale. Mr Buick said those were conversations going on between Mr Fryer and Assistant Commissioner (Crime) Graham Ashton.⁵³⁶⁷

⁵³⁶³ Exhibit RC0680 Issue Cover Sheet, Notification of anticipated subpoena in Dale prosecution around matters concerning Victoria Police engagement with Nicola Gobbo, 31 August 2011, VPL.6025.0005.7898.

⁵³⁶⁴ Exhibit RC1569 Email chain involving Krista Breckweg and Boris Buick, 1 to 13 September 2011, VPL.6031.0020.0401.

⁵³⁶⁵ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 4 September 2011, 15-16, VPL.0100.0068.0245 @.0259-0260; Transcript of Inspector Boris Buick, 1 November 2019, 8862-8863, TRN.2019.11.01.01.P.

⁵³⁶⁶ Transcript of Inspector Boris Buick, 1 November 2019, 8858, TRN.2019.11.01.01.P.

⁵³⁶⁷ Transcript of Inspector Boris Buick, 1 November 2019, 8859-8863.

4235. On 6 September 2011, Mr Buick sought advice from the VGSO as to whether the WPA could be used to shield Ms Gobbo from cross-examination which might reveal her activities as a human source. He was later advised by the VGSO that the relevant provisions of that Act would not prevent such questioning.⁵³⁶⁸
4236. On 8 September 2011, Mr Buick emailed Messrs O'Connell and Solomon, who had been involved in the Petra investigation, and Mr Sandy White, who had previously been Ms Gobbo's controller at the SDU before moving to the [REDACTED]. Mr Buick attached the 31 August 2011 document he had prepared seeking legal advice and indicated that Mr Gerard Maguire of counsel had been briefed and they were meeting the following week. Mr Buick asked:
- what if any documents had been sought, provided and/or argued over in the earlier Dale murder prosecution from the Witness Security Unit, the SDU, Mr Overland, or anyone else in relation to the engagement and management of Ms Gobbo as a human source; and
 - how they had or would they have explained how Ms Gobbo came to be a witness in light of what had historically transpired between Ms Gobbo and the SDU and Victoria Police.⁵³⁶⁹
4237. Mr Sandy White responded that they all needed to meet to discuss his query so that there was no confusion as to what had occurred and what could be said about Ms Gobbo's relationship with the SDU and Victoria Police.⁵³⁷⁰
4238. Mr Sandy White forwarded the email to Mr O'Connor, who had become the Inspector in Charge of the SDU in May 2010, and Mr Anderson, one of Ms Gobbo's former handlers at the SDU. In this email Mr Sandy White indicated that the SDU should be involved in discussions. Mr O'Connor forwarded the email to his superior, Superintendent Paul Sheridan, who had oversight of the Covert Services Division (CSD) within I&CS, indicating that he intended to remind Mr Buick that anything to do with the SDU should go through him (Mr O'Connor).⁵³⁷¹
4239. On 12 September 2011, Messrs Buick, O'Connor, Anderson, Sandy White and a Senior Sergeant from the WSU attended a meeting in relation to Ms Gobbo. There was discussion of the way subpoenas had been handled in the Dale murder prosecution.⁵³⁷²

⁵³⁶⁸ Exhibit RC0683 Issue cover sheet and response from Greg Elms VGSO to Mr Findlay McRae regarding coverage of the Witness Protection Act, 6 September 2011, VPL.0100.0049.0001.

⁵³⁶⁹ Exhibit RC0834, Email chain involving Inspector Boris Buick, Mr Sandy White, Detective Sergeant Solon (Sol) Solomon, Mr Shane O'Connell, Superintendent John O'Connor and Mr Anderson, 8 September 2011, VPL.0005.0013.1273.

⁵³⁷⁰ Exhibit RC0834, Email chain involving Inspector Boris Buick, Mr Sandy White, Detective Sergeant Solon (Sol) Solomon, Mr Shane O'Connell, Superintendent John O'Connor and Mr Anderson, 8 September 2011, VPL.0005.0013.1273.

⁵³⁷¹ Exhibit RC0834, Email chain involving Inspector Boris Buick, Mr Sandy White, Detective Sergeant Solon (Sol) Solomon, Mr Shane O'Connell, Superintendent John O'Connor and Mr Anderson, 8 September 2011, VPL.0005.0013.1273; Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, VPL.0014.0077.0001.

⁵³⁷² Exhibit RC1564 Mr Shane O'Connell diary, 12 September 2011, 252, RCMP.0146.0001.0002 @.0252; Exhibit RC0644 Inspector Boris Buick day book, 12 September 2011, 214, RCMP.0084.00001.0002 @.0214.

4240. On 13 September 2011, a conference took place involving Mr Maguire, Ms Jarrett of the VGSO, and Messrs Buick and Frewen. Amongst the matters noted by Ms Jarrett were:
- discussion about disclosure obligations
 - Mr Buick's concern to 'ring-fence' Ms Gobbo's relationship with Victoria Police and his view that it was not relevant to the prosecution of Mr Dale
 - discussions as to which areas of Victoria Police held relevant material including Civil Litigation Division, the HSMU, the WSU, the MDID and the Petra and Briars Taskforces
 - the need to speak to Mr Fin McRae, the Director of the Legal Services Department (LSD) within Victoria Police
 - the need to protect Victoria Police, given that exposure of Ms Gobbo's role might jeopardise other proceedings and convictions.⁵³⁷³
4241. Mr Buick conceded that there was an awareness by those at the meeting that Ms Gobbo's role as a human source may have led to convictions based upon material which might have been inadmissible.⁵³⁷⁴
4242. On 14 September 2011, Mr Buick discussed with Ms Gobbo the way in which she had assisted Messrs Cooper and Thomas. He asked if her assistance had simply involved her acting as a lawyer providing advice in their best interests to plead and give evidence. Ms Gobbo responded that it was far more than that. She explained that she had provided detailed information to police about what they would be able to say to statement takers. She said that had occurred from the time of her dealings with Mr McGrath. She said that Mr Sandy White and others at the SDU had been the conduit of her information.⁵³⁷⁵
4243. On 15 September 2011, a conference took place involving Mr Maguire, Ms Jarrett, and Superintendent Peter Lardner and Detective Senior Sergeant Andrew Bona of the LSD.
4244. It is likely that this meeting occurred after Mr McRae had been spoken to following the 13 September 2011 meeting (referred to above). One would expect that Mr McRae was given some information about the issues arising in relation to Ms Gobbo.
4245. At this 15 September 2011 meeting, there was discussion of the defence of Mr Dale, and the likelihood that there would be an issue as to Ms Gobbo's involvement with police. Amongst the matters noted by Ms Jarrett were:⁵³⁷⁶
- a discussion of Mr Buick's attitude they should not 'unpack her life in terms of credit' as it was not relevant to the charges

⁵³⁷³ Exhibit RC0685 File note of Ms Louise Jarrett, VGSO, 13 September 2011, 1 [4], VGSO.5000.0051.0062.

⁵³⁷⁴ Transcript of Inspector Boris Buick, 1 November 2019, 8872-8873, TRN.2019.11.01.01.P.

⁵³⁷⁵ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 14 September 2011, 9-13, VPL.0100.0068.0395 @.0403-.0407.

⁵³⁷⁶ Exhibit RC0686, VGSO Record of Attendance/File Note dated 15 September 2011 File: Subpoena Meeting with A Bona, Peter Lardner, Gerry Maguire, VGSO.5000.0051.0060.

- that the credit issues were relevant, and there would likely be an issue as to her involvement with police
- the need to know what the problem was based upon the extent of her involvement with police
- there may be problems if she has informed on her client, as those convicted would appeal their sentences
- the identification of the various areas of Victoria Police likely to have had dealings in relation to Ms Gobbo including the Purana, Briars, Petra and Driver Taskforces, a number of surveillance units, the HSMU and WSU.

4246. On 16 September 2011, a meeting of the Driver Taskforce Steering Committee took place which was attended by Messrs Ashton, Dunne, Fryer, Frewen and McRae. There was discussion of the Dale ACC prosecution including that:⁵³⁷⁷

- when the brief was submitted for authorisation in December 2010, the CDPP were of the opinion the case was reasonably strong
- Mr McRae raised the civil agreement with Ms Gobbo not to call her as a witness as it may give rise to a 'new hurt' in a civil claim for damages, and Sir Ken sought advice that the CDPP calling Ms Gobbo as a witness would not breach the agreement
- it was conceded by all that there were significant PII issues that required consideration that may give rise to risk associated with this and other unrelated witnesses and prosecutions
- it was expected there would be an all-encompassing subpoena from Mr Dale's solicitor
- there was to be a meeting with Mr Maguire involving the VGSO, CDPP, Briars Taskforce, Civil Litigation in relation to these matters and other public interest immunity and subpoenas, which Mr Frewen would report on at the next meeting
- a decision on the prosecution or use of Ms Gobbo was to be reserved pending further information coming to light from meetings, subpoena process and the success of PII claims
- there was discussion as to the use of the new Evidence Act provisions to admit Ms Gobbo's evidence in her absence at the committal.

4247. On 21 September 2011, a conference took place at Mr Maguire's chambers.⁵³⁷⁸ The conference was attended by Mr Maguire, VGSO instructors Mr Elms and Ms Jarrett, Messrs McRae and Bona, Messrs Buick and Frewen from the Driver Taskforce, Mr Sandy White and Mr Waddell from the Briars Taskforce and Ms Breckweg from the CDPP.

⁵³⁷⁷ Exhibit RC1811 Driver Taskforce Steering Committee minutes, 16 September 2011, VPL.0099.0007.0036.

⁵³⁷⁸ Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, 21 September 2011, VGSO.5000.0051.0043 @.0045.

4248. When discussing matters relevant to the anticipated subpoena, Mr Elms recorded a contribution from Ms Breckweg:
- *Informer & liar*
 - *All issues to credit*⁵³⁷⁹
4249. Ms Jarrett's recording of this contribution was:
- *Serial liar, dobber*
 - *Dobbed on clients*
 - *This will be their tactic*⁵³⁸⁰
4250. Mr Maguire determined that the first document he needed to analyse was the SML and enquired whether this document would indicate who was being investigated and whether they were being represented by Ms Gobbo. Ms Jarrett recorded a response from Ms Breckweg, which in probability was a reference to the Tomato Tins prosecution:
- *At least one*⁵³⁸¹
4251. Following this point in the meeting there was comment by Mr Sandy White in relation to the SDU's knowledge of Ms Gobbo acting for clients. Mr Elms recorded the comment by Mr Sandy White:
- *Great pains to ensure VP never obtained info on people F represented*
4252. Ms Jarrett recorded the comment by Mr Sandy White:
- *VP went to great lengths to avoid knowing who she was acting for/to avoid her being deployed against anyone she was acting for*⁵³⁸²
4253. The meeting continued for a time after Ms Breckweg left. A note by Mr Elms indicates that Mr McRae was to be involved in a risk assessment which would address Ms Gobbo's personal safety, information provided by her, and information on people she was acting for.⁵³⁸³ Mr McRae also made notes in relation to risks to Ms Gobbo, and 'to other sources/investigations'.⁵³⁸⁴
4254. On 22 September 2011, Mr Ashton made a diary entry of the need for he and Messrs McRae and Fryer to have a meeting with the CDPD about risks associated with Ms Gobbo and the Dale prosecution.⁵³⁸⁵

⁵³⁷⁹ Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, File Note of Mr Greg Elms, 21 September 2011, VGSO.5000.0051.0043 @.0045.

⁵³⁸⁰ Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, File Note of Ms Louise Jarrett, 21 September 2011, VGSO.5000.0051.0043 @.0047.

⁵³⁸¹ Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, File Note of Ms Louise Jarrett, 21 September 2011, VGSO.5000.0051.0043 @.0047.

⁵³⁸² Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, File Note of Ms Louise Jarrett, 21 September 2011, VGSO.5000.0051.0043 @.0047.

⁵³⁸³ Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, File Note of Mr Greg Elms, 21 September 2011, VGSO.5000.0051.0043 @.0045.

⁵³⁸⁴ Exhibit RC1097 File note of Mr Findlay McRae, 21 September 2011, VPL.0005.0003.2995.

⁵³⁸⁵ Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 22 September 2011, 5, VPL.6132.0041.4616 @.4620.

4255. That day, Mr O'Connor was contacted by Mr Waddell regarding a request by Mr Maguire to read the SML for Ms Gobbo. Mr O'Connor spoke with Mr Maguire that afternoon and arranged for him to view the SML.⁵³⁸⁶
4256. On 23 September 2011, Mr O'Connor met with Mr Maguire at the St Kilda Road Police Station where he left Mr Maguire in a conference room to read the SML. Later that afternoon, Mr O'Connor returned, along with Mr Sheridan, and had a brief conversation with Mr Maguire about Taskforce Driver.⁵³⁸⁷
4257. On 25 September 2011, Mr Frewen reported to Messrs Ashton, McRae and Fryer that he had met with Ms Breckweg and discussed matters as per a direction at the last Driver Taskforce Steering Committee meeting. Mr Frewen had indicated that in the event that it appeared likely that they would lose an argument in relation to public interest immunity, then the risk to Ms Gobbo and other high-risk individuals and methodologies would be too great.
4258. Mr Frewen floated that should this occur, they should seek that Ms Gobbo be withdrawn as a witness from the brief. Her evidence could be sought to be introduced in other ways. Mr Frewen reported that Ms Breckweg was receptive and understood the predicaments and risks, but maintained the brief was worth progressing. Ms Breckweg said she would seek the advice of counsel in relation to the options available if Ms Gobbo was not to be called as a witness.
4259. Mr Frewen told Ms Breckweg that Messrs Ashton, McRae and Fryer would meet with Mr Kirne to progress the matter further. Ms Breckweg indicated that Mr Kirne would likely have to take the matter to the Commonwealth Director in Canberra for final sign off given the high risks posed by Ms Gobbo.
4260. On 27 September 2011, Ms Gobbo spoke further with Mr Buick. During the conversation she told him about her involvement with Mr Cooper, including that:
- she was responsible for having him arrested a third time
 - she had provided the information leading to his arrest (also telling Mr Buick the nature of that information)
 - she had sat in the boardroom with Mr O'Brien
 - Mr Cooper did not want to assist, and she had pushed him over the line
 - she was still supporting him six years down the track.⁵³⁸⁸
4261. On 28 September 2011, Mr Maguire, together with VGSO instructors Mr Elms, Ms Jarrett and Mr Shaun LeGrande, provided advice in conference to

⁵³⁸⁶ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 20 [119], VPL.0014.0077.0001.

⁵³⁸⁷ Exhibit RC0795, Statement of Superintendent John O'Connor, 11 October 2019, 21 [120]-[100], VPL.0014.0077.0001; RC0808 Superintendent John O'Connor diary, 23 September 2011, 46-47, VPL.0005.0186.0009 @0054.

⁵³⁸⁸ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 27 September 2011, 26-27, VPL.0100.0068.0953 @.0978-.0979.

Messrs Buick and Frewen and Mr Sheridan. His presence was an indication that it was recognised that this was an issue that affected both the Crime Department, which was headed by Assistant Commissioner Ashton, and the I&CS, which was headed by Assistant Commissioner Pope.

4262. Mr Maguire had reviewed the SML and prepared a draft written advice by this time,⁵³⁸⁹ which was finalised on 4 October 2011 in substantially the same form.⁵³⁹⁰ The advice set out the background of Ms Gobbo's involvement with Victoria Police as a human source from September 2005. Mr Maguire's advice included that:

- disclosure of some material may be required relating to Ms Gobbo's dealings with the SDU in relation to Mr Dale, and at the very least this material would need to be considered by the CDPD to determine whether such material should be provided to the defence as a matter of fairness. This was the case because of the relevance of the material to the anticipated issues in the proceeding and the implications for Ms Gobbo's credit insofar as she maintained that no relationship of lawyer and client existed. It was considered that upon a claim of public interest immunity being made that a court might determine that the public interest in protecting the identity of a human source was outweighed by the public interest in disclosing material which would assist the defendant in establishing innocence

in the absence of disclosure:

- Ms Gobbo might be induced to provide inaccurate or false evidence as to her relationship with Victoria Police and involvement with them in respect of Mr Dale
- should Ms Gobbo be asked questions about her involvement with Mr Dale in relation to the murder investigation, a claim of public interest immunity would need to be made, which would confirm in the minds of interested persons that Ms Gobbo was an informer at an earlier time
- any public interest immunity claim made publicly would defeat the purpose of making the claim. A magistrate would therefore have to be provided with confidential material setting out the circumstances in which Ms Gobbo was registered and thereafter deployed not only in respect of Dale, but potentially other persons her were clients
- once disclosure was made and Ms Gobbo was identified as an informer, it is likely that the defence would press to obtain documents in relation to all other dealings between the police and Ms Gobbo on the basis that it would show she was providing legal services and advice to other targets at the same time as information was being provided to police
- Ms Gobbo had supplied information to Victoria Police in relation to Mr Tony Mokbel and his associates, whilst she was acting in a legal capacity for Mr Tony Mokbel and other of his associates

⁵³⁸⁹ Exhibit RC0689 Draft Memorandum of Advice in the matter of Buick v Dale, dated 28 September 2011 drafted by Gerard Maguire, 2 [8] – 4 [17], 12 [54], VGSO.5000.0051.0014.

⁵³⁹⁰ Exhibit RC1099, Memorandum of Advice – Buick v Dale – Gerard Maguire, 4 October 2011 with handwritten mark ups of Findlay McRae, 4 October 2011, 2 [8] – 4 [17], 12 [54], VPL.0005.0003.2968.

- if Ms Gobbo's role was fully exposed there was a possibility that persons such as Mr Tony Mokbel would seek to challenge their convictions on the basis that such convictions were improperly obtained. This might also have a collateral effect in relation to the outstanding sentencing of Mr Tony Mokbel for drug trafficking offences.
4263. Ms Jarrett noted that in accordance with Mr Maguire's draft written advice, the police were told that the defence were entitled to Informer Contact Reports and diary notes relevant to tasking Ms Gobbo in relation to Mr Dale. It would be likely that the defence would then seek documents relating to other contacts with police where she might be informing on clients.⁵³⁹¹ She further noted:
- *Whole thing unravels if they find out she was a source since 2007.*
 - *Messy – can't predict what will happen, eg. Effect on Mokbel.*
 - ...
 - *Either have to mount PII argument which demonstrates her co-op w/police*
 - *If mag sees the docs there is a risk he will decide defence should see the docs*
4264. Mr Maguire advised that the matter should be raised with Messrs Ashton and Pope, and that urgent consideration should be given to providing a copy of relevant log entries to the prosecutor for the purposes of determining what if any disclosure was required in the interests of fairness.⁵³⁹²
4265. On 29 September 2011, Mr McRae briefed Mr Cartwright on the emerging issues related to Ms Gobbo. His notes indicated they spoke about matters including:
- risks around Ms Gobbo's credibility
 - the Commonwealth DPP instructor
 - the need to elevate discussions as to Ms Gobbo's role as a human source and importance to the case above Mr Frewen
 - Mr McRae arranging a meeting with the CDPP
 - that the matter was to be discussed with Messrs Ashton, Pope and McRae upon Mr Ashton's return.⁵³⁹³
4266. On 3 October 2011, Mr Buick attended a meeting with VGSO solicitors, and Messrs Frewen and Sheridan. He recorded that Mr Maguire's draft

⁵³⁹¹ Exhibit RC0688, File note of Ms Louise Jarrett, VGSO, 28 September 2011, VGSO.5000.0051.0031.

Exhibit RC0345 Agenda and notes of VGSO ACC prosecution and subpoena issues meeting, File Note of Jarrett, 21 September 2011, VGSO.5000.0051.0043 @.0047.

⁵³⁹² Exhibit RC0688, File note of Ms Louise Jarrett, VGSO, 28 September 2011, VGSO.5000.0051.0031; Exhibit RC0689 Draft advice by Gerard Maguire, 28 September 2011, 12 [55] VGSO.5000.0051.0041.

⁵³⁹³ Exhibit RC1275 Mr Tim Cartwright Driver Taskforce File, 29 September 2011, 50, VPL.0100.0013.0053; Transcript of Mr Tim Cartwright, 14 February 2020, 14218-14219, TRN.2020.02.14.01.P

memorandum had 'gone to Mr Ashton', that Mr Frewen was to again speak with Mr Ashton and that Mr Sheridan would speak to Mr Pope.⁵³⁹⁴

4267. On 4 October 2011, a further conference was held involving Messrs Maguire, LeGrande, Elms, Sheridan, Frewen, Buick and Ms Jarret.⁵³⁹⁵
4268. Mr Maguire presented his written advice, which contained only minor changes from his draft the previous week.
4269. There was further discussion as to whether the SML portion had to be provided to the CDPD and defence, and the duty of disclosure. Ms Jarrett noted:
- *Defence will say she had conflicted duties – suggest she has done that for Dale – no diff to other clients. Acting for him & ratting on him.*
 - ...
 - *Log goes directly to F's credit & court may order further disclosure if breaching other professional relationships.*⁵³⁹⁶
4270. Having advised of his view that Victoria Police may be required to disclose the material to the defence, and at the very least the prosecutor provided with the material for consideration, it was noted that the next step was that the issue was elevated to Messrs Ashton and Pope in order that they provide instructions as to such disclosure.⁵³⁹⁷
4271. On 5 October 2011, the day the advice was received by Mr McRae's office,⁵³⁹⁸ Mr McRae told Mr Cartwright he would arrange a meeting with the CDPD in relation to Ms Gobbo's involvement with the Dale ACC prosecution. Mr Cartwright also determined that Mr McRae had not organised a discussion in relation to 'well-being/risks/mitigation' and indicated he would do so himself.⁵³⁹⁹
4272. That afternoon, Mr Cartwright copied in Messrs Ashton, Pope and McRae on an email to his staff officer requesting a meeting in relation to witness safety for Taskforce Driver. Mr Pope then emailed Mr Ashton indicating he thought the meeting was superfluous indicating that Messrs Ashton and McRae 'no doubt have it in hand and the Steering Committee will make/endorse the final decision next week.' Mr Ashton responded that Mr McRae had 'obviously been stirring things again'.⁵⁴⁰⁰ Later that evening Mr Ashton responded further that he had spoken to Mr Cartwright who was

⁵³⁹⁴ Exhibit RC0644 Inspector Boris Buick day book, 3 October 2011, 233, RCMPI.0084.0001.0002 @.0233.

⁵³⁹⁵ Exhibit RC0690 File note of Ms Louise Jarrett, VGSO, 4 October 2011, VGSO.5000.0051.0027; Exhibit RC0836 Statement of Mr Paul Sheridan, 12 November 2019, 5 [24], VPL.0014.0087.0001 @.0005.

⁵³⁹⁶ Exhibit RC0690 File note of Ms Louise Jarrett, VGSO, 4 October 2011, VGSO.5000.0051.0027.

⁵³⁹⁷ Exhibit RC0690 File note of Ms Louise Jarrett, VGSO, 4 October 2011, VGSO.5000.0051.0027.

⁵³⁹⁸ Exhibit RC1099 Advice of Gerard Maguire, 4 October 2011, containing Legal Services Department date stamp of 5 October 2011, VPL.0005.0003.2968.

⁵³⁹⁹ Exhibit RC1275 Mr Tim Cartwright Driver Taskforce File, 29 September 2011, 50, VPL.0100.0013.0053.

⁵⁴⁰⁰ Exhibit RC1373 Email chain involving Tim Cartwright, Graham Ashton, Jeffrey (Jeff) Pope, Findlay McRae, 5 October 2011 to 6 October 2011, 1, VPL.6027.0018.4307.

happy to wait until after a meeting with the CDDP before having their meeting.⁵⁴⁰¹

11 October 2011 – Awareness of Mokbel Disclosure Issue

4273. On 11 October 2011, Mr Buick spoke with Ms Gobbo. He told her that they were awaiting advice from the CDDP as to the viability of proceeding without Ms Gobbo as a witness.⁵⁴⁰²

4274. On the same day a meeting took place involving Messrs Cartwright, Ashton, Pope and McRae. Amongst other matters, they discussed:⁵⁴⁰³

- the advice being sought from the CDDP referred as to the viability of proceeding without Ms Gobbo as a witness
- the prospects of withdrawing Ms Gobbo as a witness
- that if a PII argument in relation to Ms Gobbo's previous disclosures about Mr Mokbel were to fail then they would pull the charges
- risks around the Hodson and Williams coronial inquests
- whether they could get Ms Gobbo into the Witness Protection Program
- that Ms Gobbo was still mixing with people she had given evidence against
- it was agreed that they would await a meeting with the CDDP, and if the decision was to proceed with her evidence, they would again approach Ms Gobbo to encourage her into the Witness Protection Program, and that no other action was reasonable at that stage.

4275. Mr McRae maintains that he does not recall reading the Maguire advice until after he had attended a meeting on 3 November 2011.⁵⁴⁰⁴ It is submitted that whilst there are reasons to doubt that evidence, even if it were accepted, it would demonstrate a lack of preparation for a meeting in which clearly important issues were to be discussed.

12 October 2011 – The Marijancevic Issue

4276. On 12 October 2011, Ms Ashton recorded an issue arising in relation to Mr Tony Mokbel. There was a media article anticipated in relation to Mr Mokbel the following day and Mr Lay wanted to know if there was a problem.⁵⁴⁰⁵

4277. The previous week in the trial of *DPP v Marijancevic*, the trial judge had ruled a search warrant invalid after it had been discovered that members of police had signed, but not sworn or affirmed affidavits. This ruling had been

⁵⁴⁰¹ Exhibit RC1373 Email chain involving Tim Cartwright, Graham Ashton, Jeffrey (Jeff) Pope, Findlay McRae, 5 October 2011 to 6 October 2011, 1, VPL.0003.0007.0333.

⁵⁴⁰² Exhibit RC0679 Transcript of meeting between Nicola Gobbo and Boris Buick, 11 October 2011, 21, VPL.0100.0068.0321 @.0341.

⁵⁴⁰³ Exhibit RC1275 Mr Tim Cartwright Driver Taskforce File, 29 September 2011, 50, VPL.0100.0013.0053; Exhibit RC0861 Chief Commissioner Graham Ashton diary, 11 October 2011, 118, RCMP.0097.0001.0001 @.0118.

⁵⁴⁰⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 29 [5.8] VPL.0014.0089.0003 @.0031.

⁵⁴⁰⁵ Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 12 October 2011, 5, VPL.6132.0041.4616 @.4620.

made after hearing evidence into police practices regarding the signing of affidavits. Mr Tony Mokbel had entered a plea of guilty to various charges on 18 April 2011 but remained to be sentenced.⁵⁴⁰⁶ There was concern that he would seek to change his plea.

4278. Mr Ashton noted that he had been briefed by Mr Fryer that the warrants in relation to Mr Tony Mokbel were fine, and he had given this advice to Messrs Lay, Cartwright and McRae.⁵⁴⁰⁷
4279. Following this time, it emerged that a practice had developed within Victoria Police whereby deponents would sign affidavits, which would then be 'witnessed' later, without the deponent having given an oath or affirmation. This practice was widespread and had been going on for years. Consequently, there was concern that people may have been convicted on the basis of evidence that was inadmissible, in circumstances where those police who had falsely sworn affidavits had potentially committed criminal offences themselves.⁵⁴⁰⁸
4280. Following this discovery, Victoria Police requested that its members declare having created improperly sworn affidavits, in order that Victoria Police could determine the extent of the issue and whether it was necessary to make disclosures to affected persons. They received 14 declarations. After an indemnity was negotiated between the OPI and the DPP, such that there would be no prosecution of Victoria Police members, they received over 9000 declarations between January and February 2012.
4281. Mr McRae told the Commission that the indemnity was appropriate as he believed that the right to a fair trial took primacy over the criminal or disciplinary investigations of Victoria Police members.⁵⁴⁰⁹ Ultimately retrospective legislation was enacted remedy the situation.
4282. Mr Tony Mokbel made an application to the Supreme Court of Victoria to change his plea on 18 October 2011 on the basis of the improperly sworn affidavits, noting that the cases against him depended substantially upon evidence obtained on warrants by Victoria Police, for which affidavits were required to be sworn.⁵⁴¹⁰
4283. This received media attention at the time and was a significant matter in which Mr McRae had dealings.⁵⁴¹¹ As indicated above Mr Ashton was cognisant of this issue, as is to be expected given his role as Assistant Commissioner of Crime and the significance of the Mokbel prosecution.⁵⁴¹²

⁵⁴⁰⁶ *R v Mokbel (Change of Pleas)* [2012] VSC 86, [2].

⁵⁴⁰⁷ Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 12 October 2011, 5, VPL.6132.0041.4616 @.4620.

⁵⁴⁰⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 27 - 28 [5.2]– [5.3], VPL.0014.0089.0003 @.0029-.0030.

⁵⁴⁰⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 28 [5.4], VPL.0014.0089.0003 @.0030.

⁵⁴¹⁰ *R v Mokbel (Change of Pleas)* [2012] VSC 86.

⁵⁴¹¹ Transcript of Findlay McRae, 31 January 2020, 12780-12784 TRN.2020.01.31.01.P.

⁵⁴¹² Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 12 October 2011, 14 November 2011, 22 November 2011, 2 February 2011, 5,7,10, VPL.6132.0041.4616 @.4620,.4622,4625.

19 October 2011 – Gobbo Issues Heating Up

4284. On 19 October 2011, Ms Breckweg sent an email to Ms Jarrett and Messrs Buick and Frewen. The letter referred to the potential agreement that Victoria Police had struck with Mr Dale's instructor that he would not issue a further subpoena if Mr Dale's defence could rely upon documents obtained in the Dale murder prosecution. Ms Breckweg attached a copy of the Commonwealth Prosecution Disclosure Policy and made clear that any agreement in relation to subpoenas with Mr Dale's lawyers would not abrogate the responsibility on Victoria Police to make disclosure of documents relevant to his defence. She indicated that material which should be disclosed to Mr Dale included:

- documents that informed Mr Dale of the prosecution's case against him
- any information affecting the credibility of any prosecution witness
- any material not sought to be relied upon by the prosecution, but which may run counter to its case or may assist Mr Dale in advancing a defence.

4285. Ms Breckweg sought that a list of such documents be provided to the CDPP, along with copies of the documents, as a matter of urgency. She indicated that that this material must be made available to the defence, save where a claim of PII or LPP was made in respect of the entire document.⁵⁴¹³

4286. Mr Frewen forwarded the email to Mr Fryer indicating he had spoken to Ms Breckweg who had:

- informed him that Victoria Police would need to provide all material regarding Ms Gobbo and Mr Dale and all material pertaining to Ms Gobbo's credibility, which Mr Frewen suggested was everything
- indicated that the advice from counsel as to the viability of proceeding without Ms Gobbo was expected the following week
- indicated that it was the position of the CDPP that they still required Ms Gobbo as a witness in the proceeding
- recommended that all the 'decision makers' should meet in order to resolve the matter, that is, to decide what would be handed over, if anything, and the future direction of the matter, with a discussion to take place at the CDPP the following week involving Messrs Ashton, Pope, McRae, Fryer, Frewen and Buick.

4287. Mr Fryer forwarded the email train to Mr Ashton indicating:

⁵⁴¹³ Exhibit RC0694, Email chain involving Krista Breckweg, Louise Jarrett, Boris Buick, Michael Frewen, Douglas (Doug) Fryer, Graham Ashton, 5 October 2019 to 19 October 2011, 2-3, VPL.6071.0073.6622 @.6623-.6624.

... the Gobbo witness issues are heating up with the DPP – if the below is correct it would appear ALL needs to be declared re her history – this is a problem. For discussion please.⁵⁴¹⁴

4288. Mr Ashton responded directing that the meeting with the CDPP be set up and to ensure that Mr Kirne was present at the meeting.
4289. Also that day, Mr Buick received an email from Ms Gobbo⁵⁴¹⁵ attaching a letter dated 17 October 2011⁵⁴¹⁶ setting out concerns as to her safety and security.
4290. On 20 October 2011, Mr Buick forwarded Ms Gobbo's letter to Mr Frewen, who sent it to Mr Fryer, who sent it to the remainder of the Driver Taskforce Steering Committee, Messrs Ashton, Pope, Dunne and Clive Rust, for discussion at the committee meeting the next day.⁵⁴¹⁷
4291. The Driver Taskforce Steering Committee met as planned on 21 October 2011, and was attended by Messrs Ashton, Pope, Dunne, Fryer, Frewen and Buick.⁵⁴¹⁸ There was discussion of the Dale ACC prosecution including:⁵⁴¹⁹
- CDPP disclosure provisions
 - ongoing discussion around the consequences of Ms Gobbo being cross-examined, and that notwithstanding any public interest immunity claim, any cross-examination of Ms Gobbo would potentially expose the level of engagement she may have had with other criminal matters
 - discussion about the forensic need to subpoena such material, given the prosecution would make an argument of that the material was not relevant (indicating that such material would not be disclosed unless there was a subpoena)
 - Counsel and VGSO were advising that it was most likely that material would need to be provided prior to any argument for public interest immunity being mounted
 - the CDPP was awaiting written advice from Mr Chris Beale SC, after which a meeting would be convened by Messrs Ashton and Fryer with Mr Kirne of the CDPP to discuss further options.

⁵⁴¹⁴ Exhibit RC0694, Email chain involving Krista Breckweg, Louise Jarrett, Boris Buick, Michael Frewen, Douglas (Doug) Fryer, Graham Ashton, 5 October 2010 to 19 October 2011, 1-2, VPL.6071.0073.6622 @.6622-.6623.

⁵⁴¹⁵ Exhibit RC0692 Email from Nicola Gobbo to Boris Buick, 19 October 2011, forwarded to John O'Connor on 20 October 2011, 1, VPL.6031.0015.7702.

⁵⁴¹⁶ Exhibit RC0693, Letter from Nicola Gobbo to Boris Buick, 17 October 2011, 1-2 MIN.5000.0001.6946 @.6946-6947.

⁵⁴¹⁷ Exhibit RC1689 Email from Michael Frewen to Douglas Fryer forwarded to Graham Ashton, Jeffrey (Jeff) Pope, Emmett Dunne, Clive Rust, Michael Frewen, 20 October 2011, and attachment to email, Letter from Nicola Gobbo to Boris Buick, Email VPL.6027.0015.3745 and Attachment Exhibit RC0693 MIN.5000.0001.6946.

⁵⁴¹⁸ Exhibit RC0644 Inspector Boris Buick day book, 21 October 2011, 26, VPL.0005.0035.0163 @.0188.

⁵⁴¹⁹ Exhibit RC1307 Driver Taskforce Steering Committee minutes, 21 October 2011, VPL.6071.0051.0764.

21 October 2011 – Gobbo Alleges Sexual Relationship with Pope

4292. On the afternoon of 21 October 2011, Ms Gobbo met with Messrs Buick and Lebusque. During the conversation Mr Buick indicated they were still awaiting advice from the CDPP, but that irrespective of the position of the CDPP, Victoria Police would ask the CDPP not to proceed. Ms Gobbo asked why, and Mr Buick responded that although he had not been fully briefed, he understood that the examination of Ms Gobbo, or the production of documents relating to Ms Gobbo, had the potential to jeopardise other prosecutions. Mr Buick told Ms Gobbo that the real problem was her relationship with other people over the years, and what had been recorded in relation to those matters, and the impact which it might have on those convictions.

4293. Ms Gobbo asked why it was that this was only being considered in 2011, when she had been raising these issues since 2009, and went on:

... I've always said the problem's going to be the police, not in terms of my safety 'cause I'll be dead but in terms of people jumping up and down about their convictions. I've said that for years. But isn't this all based on the assumption that if somebody asks me a question, it comes out?

4294. Mr Buick told Ms Gobbo that there was an assumption that material relevant to Ms Gobbo's credit would be sought, and Ms Gobbo responded that no subpoena had been issued. Mr Buick then referred to the CDPP Prosecution Disclosure Policy, indicating that their philosophy was broader than that of Victoria Police. Mr Buick said that there was work going on so that Victoria Police could 'walk away' to ensure that Ms Gobbo was not exposed as a human source. Mr Buick said that these matters were still outstanding and would have come to a head during the Dale murder prosecution had that proceeded.⁵⁴²⁰

4295. Further into the conversation Mr Buick asked whether Ms Gobbo had provided information to the SDU which would embarrass high profile lawyers, politicians or police. This conversation led to Ms Gobbo making an assertion that she had had a sexual relationship with Mr Pope. Ms Gobbo commented on the 'twisted irony' that Mr Pope would be the one to assess her reward application. Mr Buick asked whether a reward application had been submitted and Ms Gobbo responded that she had been told by Mr Sandy White not to make an application until she was no longer a witness as he and Mr O'Connell did not want such an application to cause an issue in the prosecution of Mr Dale.⁵⁴²¹

4296. Within days, Ms Gobbo's allegation had been elevated to the highest levels of Victoria Police. On 24 October 2011, Mr Fryer advised Mr Ashton, who then met with Mr Pope who denied the allegation. That afternoon Messrs Ashton and Pope briefed Mr Cartwright. Mr Ashton noted that Mr Cartwright was to arrange a transcript of the tape recording of Ms Gobbo's meeting with Messrs Buick and Lebusque and obtain a sworn affidavit from Mr Pope. Mr Cartwright indicated that following this he would brief the OPI. He also

⁵⁴²⁰ Exhibit RC0679 Transcript of conversation between Nicola Gobbo, Boris Buick and Jason Lebusque, 21 October 2011, 5-6, 10-17, VPL.0100.0068.0545 @.0459-.0460, .0554-.0561

⁵⁴²¹ Exhibit RC0679 Transcript of conversation between Nicola Gobbo, Boris Buick and Jason Lebusque, 21 October 2011, 42-50, VPL.0100.0068.0545 @.0586-.0594.

said that until such time as the matter had been examined properly, Mr Pope should not participate in the Driver Taskforce Steering Committee. Mr Cartwright wrote a memorandum to Mr Ashton setting out what he had been told and what was to occur. Mr Cartwright discussed the matter with Mr Dunne. By 5pm that day Mr Cartwright briefed the Acting Chief Commissioner, Mr Lay.⁵⁴²²

4297. On 25 October 2011, Mr Pope suggested to Mr Cartwright that Ms Gobbo's allegation should be tabled at the next meeting of the Driver Taskforce Steering Committee. Mr Cartwright agreed and instructed that Mr Ashton ensure that the matter was covered in the briefing and minutes.⁵⁴²³
4298. On 27 October 2011, Messrs Ashton, Pope and McRae met in relation to the allegations Ms Gobbo had made against Mr Pope.
4299. Following this the Driver Taskforce Steering Committee met and was attended by Messrs Ashton, Pope, Fryer, Frewen and Buick.⁵⁴²⁴ There was discussion of the allegation made by Ms Gobbo about Mr Pope, including:⁵⁴²⁵
- a transcript of the conversation was completed by Mr Buick
 - it was asserted that Ms Gobbo had previously engaged in a sexual relationship with Mr Pope
 - the Steering Committee meeting had been called out of sync to address this issue and to evaluate any impact or perception upon the individuals concerned and the activities of the Driver Taskforce as well as the mooted activities of Ms Gobbo

Mr Pope making a statement to the meeting which included:

- a categorical denial of any sexual affair or relationship with Ms Gobbo
- a background to his previous involvement with her
- that he had previously declared his interests regarding this matter to Messrs Jones, McRae and Lardner and had been advised that there was no conflict of interest
- that he would provide evidence by either signed affidavit or on oath as to these matters, understanding that integrity was everything in his role as Assistant Commissioner

⁵⁴²² Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 10 [89]-[91], GLA.0006.0001.0001 @.0010; Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 24 October 2011, 5, VPL.6132.0041.4616 @.4620; Exhibit RC1273, Statement of Mr Tim Cartwright, 17 December 2019, 4 [31], VPL.0014.0121.0001 @.0004; Exhibit RC01275 Driver Taskforce file: Handwritten notes of Tim Cartwright, 24 October 2011, 49, VPL.0100.0013.0053 @.0101; Exhibit RC0892, Memorandum from Timothy Cartwright to Graham Ashton, 24 October 2011, VPL.0002.0002.0074; Exhibit RC1701 Email from Tim Cartwright to Graham Ashton, 24 October 2011, and attachment to email Memorandum from Tim Cartwright to Graham Ashton, Email GLA.0005.0003.0183 and attachment Exhibit RC0892 VPL.0002.0002.0074.

⁵⁴²³ Exhibit RC1273, Statement of Mr Tim Cartwright, 17 December 2019, 5 [35], VPL.0014.0121.0001 @.0005.

⁵⁴²⁴ Exhibit RC0644 Inspector Boris Buick day book, 21 October 2011, 26, VPL.0005.0035.0163 @.0188.

⁵⁴²⁵ Exhibit RC1811 Driver Taskforce Steering Committee minutes, 27 October 2011, VPL.0099.0005.0001.

- that he believed Ms Gobbo was attempting to create a position which would give rise to another writ against Victoria Police
 - that he had sought the advice of Mr McRae and concluded that the best thing to do was to remove himself from the Driver Taskforce Steering Committee until further notice
 - Mr Ashton indicated that there was an obligation to notify the OPI due to the allegation relating to a person of Assistant Commissioner rank.
4300. Mr Ashton noted in his diary that minutes of the meeting were taken.⁵⁴²⁶ Mr Pope stood aside from the Driver Taskforce until the matter had been investigated. Mr Ashton conveyed this to Mr Cartwright a few days later.⁵⁴²⁷
4301. On 30 October 2011, Mr Cartwright contacted Mr Paul Jevtovic, Deputy Director of the OPI and advised of the allegations. Arrangements were made for a meeting along with Mr Strong, Director of the OPI. At this meeting on 2 November 2011, Mr Cartwright was advised to consider whether he had a 'reason to believe' that Mr Pope was 'guilty of serious misconduct' pursuant to section 86L(2A) of the *Police Regulations Act 1958*, as this would determine whether the matter should be reported to the Director. Mr Cartwright determined he required legal advice on the issue, and further information from Ms Gobbo.⁵⁴²⁸
4302. On 2 November 2011, Mr Pope swore an affidavit before Mr Cartwright. He denied having any sexual, personal or inappropriate relationship with Ms Gobbo. Mr Pope stated he met Ms Gobbo in about 1999 or 2000 when she was a practicing lawyer as she wanted to provide information about a solicitor. Mr Pope said he could not recall whether he registered Ms Gobbo as a human source. He recalled a meeting at the Emerald Hotel with Ms Gobbo which he believed was a handover of Ms Gobbo to members of the Drug Squad including Detective Senior Sergeant Wayne Strawhorn, recalling that Ms Gobbo wanted to give information about high level drug trafficking with potential corruption links beyond his capability. He referred to a meeting with Ms Gobbo where she had propositioned him, which he had rebuffed.⁵⁴²⁹
4303. On 3 November 2011, Mr Cartwright sought advice from Mr McRae in relation to the application of section 86L(2) of the Police Regulations Act, sending him a copy of the transcript which he had received, redacted of the identities of Ms Gobbo and Mr Pope in case it might be shared beyond Mr McRae.⁵⁴³⁰
4304. On 11 November 2011, Mr Cartwright received an email from Mr McRae forwarding advice from the VGSO in relation to the Pope issue. Based on that advice, Mr Cartwright formed the view that there was no basis to make a complaint to the Director of the OPI. The VGSO further advised that the

⁵⁴²⁶ Exhibit RC0886, Chief Commissioner Graham Ashton diary summary, 27 October 2011, 5-6, VPL.6132.0041.4616 @.4620-.4621.

⁵⁴²⁷ Exhibit RC1680 Email from Graham Ashton to Tim Cartwright, 29 October 2011, 1, GLA.0003.0007.0419.

⁵⁴²⁸ Exhibit RC1273, Statement of Mr Tim Cartwright, 17 December 2019, 5-6 [38]-[43], VPL.0014.0121.0001 @.0005-.0006.

⁵⁴²⁹ Exhibit RC0061 Affidavit of Jeffrey (Jeff) Pope, 2 November 2011, VPL.0002.0002.0067.

⁵⁴³⁰ Exhibit RC01273, Statement of Mr Tim Cartwright, 17 December 2019, 6-7 [45]-[46], VPL.0014.0121.0001 @.0006-.0007.

perception of conflict of interest could be appropriately managed if Mr Pope had no further involvement in the Driver Taskforce Steering Committee or in relation to Ms Gobbo personally. Mr Cartwright was satisfied by the fact that Mr Pope had stood aside from the Steering Committee and would recuse himself from decision-making in respect of Ms Gobbo in the future. Mr Cartwright therefore determined that no further action was required.

24 October 2011 – McRae’s Interview with the Ombudsman

4305. In around August 2011, the Ombudsman had commenced an investigation in relation to an allegation of improper conduct involving Victoria Police’s settlement of the civil litigation.⁵⁴³¹ On 24 October 2011, Mr McRae took part in an interview with the Victorian Ombudsman regarding his involvement in the settlement.

4306. Mr McRae was asked to characterise Ms Gobbo’s relationship with Victoria Police and responded that initially she had provided information, which may have at times been as a registered source, that she later became a witness, then was a litigant, and that recently there was more contact.⁵⁴³² He was asked about the reasons why Victoria Police might wish to avoid public exposure of its dealings with Ms Gobbo and said:

She gave us so much information on so many criminals, including people who had given information on other people who may be in the same prisons, that if that came out through discovery ... It would never come out through an open court because we’d always suppress it.⁵⁴³³

4307. Later, in response to a question in relation to the claim brought by Ms Gobbo, Mr McRae said:

But having said that, I don’t discount the fact that she gave evidence that’s led to a lot of matters – not “gave” evidence, gave us information. Because as a witness – and she’s not a good witness – but in terms of giving us information that led to inquiries she did a – it was very brave ... well worth the money for the Victorian community. I’ve forgotten how much – how high that settlement was. I still stay it’s worth the money though.⁵⁴³⁴

4308. Mr McRae did not advise those interviewing him from the Ombudsman’s office of concerns that Ms Gobbo may have been providing information about her own clients.

⁵⁴³¹ Exhibit RC1231 Statement of Mr Peter Lardner, 27 November 2019, 13 [66], VPL.0014.0102.0001 @.0013.

⁵⁴³² Exhibit RC1100 Transcript of Findlay McRae interview with Ombudsman, 24 October 2011, 57 [Q223], VPL.0005.0149.0001 @.0057.

⁵⁴³³ Exhibit RC1100 Transcript of Findlay McRae interview with Ombudsman, 24 October 2011, 72-73 [Q304-307], VPL.0005.0149.0001 @.0057.

⁵⁴³⁴ Exhibit RC1100 Transcript of Findlay McRae interview with Ombudsman, 24 October 2011, 74 [Q310], VPL.0005.0149.0001 @.0074.

27 October 2011 – CDDP Want Gobbo as a Witness

4309. On the morning of 27 October 2011, a Driver Taskforce Steering Committee meeting took place attended by Messrs Ashton, Pope, Fryer, Rust and Buick. At the meeting:⁵⁴³⁵

- Mr Frewen ran through the prosecutorial options which had been detailed to him by Ms Breckweg which included leaving Ms Gobbo out of proceedings, using the 7 December 2008 recording as an exhibit only, and the potential outcome being that there might only be between four and eight charges that could proceed without Ms Gobbo as a witness
- it was determined that Mr Buick should approach [REDACTED]
- Mr Ashton suggested he would have a conversation with Mr Kirne from the CDDP and put the position from the perspective of Victoria Police, detailing the 'risk' issues associated with using Ms Gobbo as a witness so that they would be able to arrive at a position with the CDDP as to the ongoing prosecution options and the use of Ms Gobbo
- it was determined that Mr Ashton would approach Mr Sheridan to replace Mr Pope on the Driver Taskforce Steering Committee, who was familiar with many issues relating to Ms Gobbo.

4310. On 28 October 2011, Mr Buick met with Ms Gobbo and recorded the meeting. He told her of the CDDP advice, that Mr Ashton would be meeting with the CDDP the following week and that he could not predict what would happen. He told Ms Gobbo to bear in mind that the CDDP were not across Ms Gobbo's history and there was a question of how familiar they needed to be made of her history. Mr Buick said it was 'a tricky situation' deciding whether to tell the CDDP a little or a lot.⁵⁴³⁶

4311. Mr Buick told Ms Gobbo that he had made representations that there be more flexibility in relation to witness security arrangements, that she would be spoken to by someone about those matters the following week, then it would be taken back to the Steering Committee for decision.⁵⁴³⁷

4312. There was further discussion about Operations Bootham Moko (the Tomato Tins prosecution) and Inca. Mr Buick said:

*... The decision-makers have an appreciation of that, whereas I don't think they did in the past because – and to their credit, the way that, you know, [Sandy White] and his people kept things so tight.*⁵⁴³⁸

⁵⁴³⁵ Exhibit RC1811 Driver Taskforce Steering Committee minutes, 27 October 2011, VPL.0099.0005.0001; Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 12 October 2011, 6, VPL.6132.0041.4616 @.4621.

⁵⁴³⁶ Exhibit RC0679 Transcript of conversation between Nicola Gobbo and Boris Buick, 28 October 2011, 3, 7-11 VPL.0100.0068.0794 @.0796, .0800-.0804.

⁵⁴³⁷ Exhibit RC0679 Transcript of meeting between Nicola Gobbo and Boris Buick, 28 October 2011, 15-19, VPL.0100.0068.0794 @.0808-.0813.

⁵⁴³⁸ Exhibit RC0679 Transcript of meeting between Nicola Gobbo and Boris Buick, 28 October 2011, 20-22, VPL.0100.0068.0794 @.0813-.0815.

4313. There was also reference to Mr Tony Mokbel wanting to change his plea.⁵⁴³⁹
4314. On 2 November 2011, Ms Gobbo met with Mr Buick and a member of the WSU. There was discussion of Ms Gobbo compiling a list of suggested arrangements. Ms Gobbo indicated she did not want the list to be viewed as a list of demands, rather as matters for discussion. She later told the WSU member to bring a witness protection application the next time they met.⁵⁴⁴⁰

Early November 2011 – CDDP Inspection of Documents

4315. That morning, Ms Breckweg sent an email to Messrs Fryer, Frewen and Buick confirming that she and Mr Beale would attend to inspect for relevance the documents relating to Ms Gobbo that had been identified following the meeting held with Mr Maguire. Ms Breckweg requested that once inspected a list should be prepared and provided to the defence. At the point that the defence requested to view the documents the police could instruct the VGSO to make a PII claim.⁵⁴⁴¹
4316. Mr Buick responded that the relevant documents were not in the possession of the Crime Department and copied in Mr O'Connor noting that he was the head of the unit which possessed the documents. This email was then forwarded to Mr Sheridan.⁵⁴⁴²
4317. Following this, Mr Fryer emailed Mr Sheridan, copying in Messrs Ashton, Frewen, Buick and O'Connor. Mr Fryer stated that the Driver Taskforce Steering Committee had just met and that the topics of discussion included Ms Gobbo's management file. Mr Fryer said he had read Mr Maguire's advice over the weekend which highlighted that there was much that he and the Steering Committee did not know about Ms Gobbo's tasking and activities, whilst at the same time they were trying to cover all areas related to risk, liability and her credibility as a witness. Mr Fryer requested approval for Messrs Buick, Frewen and/or himself to view the SML which had been inspected by Mr Maguire and which the CDDP were to shortly inspect.⁵⁴⁴³
4318. On 3 November 2011, Mr Fryer emailed Messrs Frewen and Buick, copying in Messrs Ashton, Pope, Sheridan and O'Connor and attaching the Maguire advice. Mr Fryer indicated:
- Mr Sheridan was not in favour of the Driver Taskforce staff viewing the SML because investigators, unlike the DPP, may be questioned in the witness box as to their knowledge, and they already knew enough about Ms Gobbo's historic involvement

⁵⁴³⁹ Exhibit RC0679 Transcript of meeting between Nicola Gobbo and Boris Buick, 28 October 2011, 36, VPL.0100.0068.0794 @.0829.

⁵⁴⁴⁰ Exhibit RC0679 Transcript of meeting between Gobbo and Buick, 2 November 2011, 55-56, 69 VPL.0100.0068.0133 @.0187-.0188,.0201.

⁵⁴⁴¹ Exhibit RC0696 Email chain involving Krista Breckweg, Boris Buick and Michael Frewen, Douglas Fryer, John O'Connor, Paul Sheridan, Graham Ashton, 2 November 2011, 3, VPL.6079.0045.3915 @.3917.

⁵⁴⁴² Exhibit RC0696 Email chain involving Krista Breckweg, Boris Buick and Michael Frewen, Douglas Fryer, John O'Connor, Paul Sheridan, Graham Ashton, 2 November 2011, 3, VPL.6079.0045.3915 @.3917.

⁵⁴⁴³ Exhibit RC0696 Email chain involving Krista Breckweg, Boris Buick and Michael Frewen, Douglas Fryer, John O'Connor, Paul Sheridan, Graham Ashton, 2 November 2011, 1-2, VPL.6079.0045.3915 @.3915-.3916.

- it was proposed that the CDPP be briefed on the ‘various statuses’ Ms Gobbo has held with Victoria Police, and that they be permitted to read the Maguire memorandum. Only if it was then deemed necessary would they be permitted to view specific or relevant areas of the SML, as full exposure might place the CDPP in a difficult position in the future
- it was the view of Mr Ashton and Mr Fryer that if the CDPP determined that it was necessary for any material to be disclosed, then they would request the CDPP to proceed only on those charges not requiring Ms Gobbo as a witness
- Mr Fryer requested of Mr Sheridan that Mr Buick be permitted to attend the meeting with the CDPP as the Maguire advice and not the SML would be the focus of discussions.⁵⁴⁴⁴

Early November 2011 – High Level Awareness of Maguire Advice

4319. On 3 November 2011, a Driver Taskforce Steering Committee meeting took place attended by Messrs Ashton, Fryer, Frewen and Rust. Mr Ashton noted that he had been provided with the Maguire advice, and that the meeting discussed proceeding on charges which did not require Ms Gobbo as a witness.⁵⁴⁴⁵
4320. Following this, Messrs Cartwright, Ashton and McRae met and discussed the Maguire advice.⁵⁴⁴⁶
4321. Whether or not they had read the advice by this time, it is apparent that Messrs Ashton and McRae were already aware of concerns that Ms Gobbo had acted for clients at the same time that she provided the police with information about them, and consequently that her exposure as a human source might put other criminal cases and prosecutions in jeopardy. Both were aware that such an issue existed in relation to Mr Tony Mokbel, who was already seeking to change his plea on grounds that evidence had been obtained against him by way of impropriety.⁵⁴⁴⁷ Mr Ashton, at least, was also aware that such an issue existed in relation to an accused in the Tomato Tins case.
4322. Mr Cartwright received Mr Maguire’s advice on 2 November 2011. A marked-up copy of it is contained in his Driver Taskforce file.⁵⁴⁴⁸ The underlining in the document indicates that Mr Cartwright noted the following

⁵⁴⁴⁴ Exhibit RC0697 Email from Douglas (Doug) Fryer to Michael Frewen, Boris Buick, Graham Ashton, Jeffrey Pope, Paul Sheridan, John O’Connor, 3 November 2011, VPL.0005.0013.1152.

⁵⁴⁴⁵ Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 3 November 2011, 6, VPL.6132.0041.4616 @.4621.

⁵⁴⁴⁶ Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 7 [46], VPL.0014.0121.0001 @.0007; Exhibit RC08560 Statement of Mr Graham Ashton, 30 August 2019, 18 [160-163], GLA.0006.0001.0001 @.0018; Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 30 [5.13-5;15], VPL.0014.0089.0003; Exhibit RC0886 Chief Commissioner Graham Ashton diary summaries, 6 January 2011 – 1 July 2011, 3 November 2011, 6, VPL.6132.0041.4616 @.4621; Exhibit RC0896 File note of McRae, 3 November 2011, VPL.0005.0003.2945.

⁵⁴⁴⁷ Transcript of Mr Findlay McRae, 31 January 2020, 12821-12822, TRN.2020.01.31.01.P; Transcript of Mr Graham Ashton, 9 December 2019, 10641, TRN.2019.12.09.01.P; Exhibit RC0886 Chief Commissioner Graham Ashton diary summaries, 6 January 2011 – 1 July 2011, 3 November 2011, 6, VPL.6132.0041.4616 @.4621,

⁵⁴⁴⁸ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 52, VPL.0100.0013.0053 @.0104.

matters, in addition to further matters directly related to the Dale ACC prosecution:

- in September 2005 Ms Gobbo approached the MDID offering to supply information in relation to Mr Tony Mokbel⁵⁴⁴⁹
- that ‘Significantly, at all relevant times [Ms Gobbo] was part of the Mokbel legal team’ in relation to two sets of charges he was facing at the time⁵⁴⁵⁰
- it was apparent from the SML that Ms Gobbo was tasked from time to time in relation to other investigative targets as well as the Mokbel syndicate⁵⁴⁵¹
- in 2006 there appeared to have been significant speculation by people charged with serious drug offending, and their lawyers, about Ms Gobbo’s role, including Mr Dale’s solicitor. There were also complaints made about Ms Gobbo’s professional conduct by Mr Carl Williams and others which had been dismissed⁵⁴⁵²
- there was a suggestion of handlers giving Ms Gobbo instructions concerning whether an adjournment application might be made in respect of Mokbel⁵⁴⁵³
- the approach taken to disclosure in the Dale murder prosecution had been to only provide documents created by Petra taskforce investigators, and it was to be contended that all documents held by the SDU were the subject of public interest immunity based on witness security and informer identification⁵⁴⁵⁴
- advice by Maguire that:
 - some limited disclosure of SDU material may be required, including the date on which the SDU had given instructions to Ms Gobbo in relation to the targeting of Mr Dale, which would confirm that Ms Gobbo was providing assistance to the SDU
 - upon a public interest immunity claim the court may accept that the material should be released despite it compromising the identification of an informer
 - any public interest immunity claim which had to be made publicly would defeat the purpose of the claim⁵⁴⁵⁵

⁵⁴⁴⁹ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 53 [8], VPL.0100.0013.0053 @.0105.

⁵⁴⁵⁰ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 53 [10], VPL.0100.0013.0053 @.0105.

⁵⁴⁵¹ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 54 [14], VPL.0100.0013.0053 @.0106.

⁵⁴⁵² Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 55 [16], VPL.0100.0013.0053 @.0107.

⁵⁴⁵³ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 55 [17], VPL.0100.0013.0053 @.0107.

⁵⁴⁵⁴ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 59 [40] VPL.0100.0013.0053 @.0111.

⁵⁴⁵⁵ Exhibit RC1275 Driver Taskforce File, Memorandum of Advice – Buick v Dale – Gerard Maguire with handwritten notes of Tim Cartwright, 4 October 2011, 59 [48, 50, 51] VPL.0100.0013.0053 @.0113-0114.

- it was likely that the defence would press to obtain documents in relation to all other dealings between police and Ms Gobbo, on the basis it would show she was providing legal services and advice to other targets at the same time as information was being provided to police. This would form the basis of a credit attack (as well as bolstering Mr Dale's claim of LPP)
- if Ms Gobbo's role as a human source were to be full exposed there was a possibility that persons such as Mr Tony Mokbel would seek to challenge their convictions on the basis that they were improperly obtained.
- a recommendation by Maguire that urgent consideration be given to providing the relevant SML entries to the prosecutor for the purposes of determining what if any disclosure is required in the interest of fairness.

4323. In respect of this last matter, Mr Cartwright also made a handwritten note:

Fed DPP will view log 3/11

Have seen this advice

4324. It is apparent that Mr Cartwright either marked up the document in advance of the meeting, or alternatively he did so at the meeting when the matters within the document were discussed.

4325. Mr Cartwright took notes which were compiled into a typed document that afternoon.⁵⁴⁵⁶ Mr McRae also took some notes of the meeting,⁵⁴⁵⁷ and Mr Ashton made a short diary entry.⁵⁴⁵⁸ These notes together indicate that the following matters were discussed at the meeting:

- the Maguire advice, insofar as it impacted upon the committal of the Dale ACC prosecution, which was due to commence on Monday, 7 November 2011. In this respect:
 - there was reference to the fact that disclosure of the Maguire advice was to be provided to the CDPP that day in relation to the Dale ACC prosecution
 - there was reference to the fact that the 'police position' was that the matter should proceed without Ms Gobbo's evidence. This would be determined by the CDPP in a decision to be made the following day
 - it was noted that [REDACTED]
[REDACTED]
[REDACTED]

⁵⁴⁵⁶ Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 7 [46], VPL.0014.0121.0001 @.0007; Exhibit RC0844 Driver Meeting Notes, Typed Notes of Cartwright, 3 November 2011, VPL.0002.0002.0065.

⁵⁴⁵⁷ Exhibit RC0896 File note of Mr Findlay McRae, 3 November 2011, VPL.0005.0003.2945.

⁵⁴⁵⁸ Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 3 November 2011, 6, VPL.6132.0041.4616 @.4621.

- the Mokbel issue which had been raised by Maguire advice. In this respect there was discussion of issues of governance of human sources when the human source was a legal practitioner
- concerns raised by Mr Ashton in relation to the pending Tomato Tins prosecution, which was then at pre-trial stage. Ms Gobbo was the originating human source in relation to this prosecution, and there was a concern that Ms Gobbo was acting as a legal advisor to one of the accused persons at the time. It was stated that consequently, there was a requirement to disclose, or at least make the prosecution aware of, Ms Gobbo's role as a human source and the possibility that at the same time she was acting as legal advisor to an affected accused person.

4326. Mr Cartwright's note of the meeting contained two action items:⁵⁴⁵⁹

- in respect of the first matter, that Mr Cartwright was to discuss with Mr Pope how they could ensure appropriate governance where a human source was a legal practitioner
- in respect of the second matter, that Mr McRae was to consider the requirements in terms of disclosure of Ms Gobbo's role in relation to the pending AFP Tomato Tins prosecution.

4327. The Commissioner should note that:

- it is apparent that there was no discussion or action taken in relation to the potential need for disclosure to Mr Tony Mokbel, or other of his associates, arising from the matters raised in Mr Maguire's advice.
- Mr McRae did not consider any requirements of disclosure in relation to the Tomato Tins matter.

4328. On the evidence, it is open for the Commissioner to find that by the end of the meeting of 3 November 2011, there was sufficient information available to each of the participants to put them on notice that prosecutions of Mr Mokbel and those associated with the Tomato Tins importation may have been and may continue to be adversely impacted by the conduct of Ms Gobbo as a human source, and/or conduct of members of Victoria police in handling and managing her.

4329. Further, each was aware that that information had probably not been brought to the attention of the legal representatives of those people or the relevant prosecuting authorities.

4330. In the circumstances, it was necessary to take all reasonable steps to make sure that concerns discussed in the meeting were properly investigated and considered by appropriately qualified legal advisors, and/or immediately brought to the attention of the state and commonwealth offices of public prosecutions.

⁵⁴⁵⁹ Exhibit RC0844 Driver Meeting Notes, Typed Notes of Tim Cartwright, 3 November 2011, 6, VPL.0002.0002.0065 @.4621

4331. **In the circumstances where prosecutions were ongoing, the appropriate immediate step would have been to communicate the concerns to the relevant office of public prosecutions.**

Early November 2011 – CDPP Requirements for Disclosure

4332. On the afternoon of 3 November 2011, Ms Breckweg and Mr Beale met with Messrs Sheridan, O'Connor and Buick. Ms Breckweg and Mr Beale were given the SML, or the relevant portions of it, to read in the presence of Mr O'Connor between 2:50 and 5:30pm.⁵⁴⁶⁰
4333. On the morning of 4 November 2011, Ms Breckweg emailed Messrs Sheridan and Buick advising that having regard to Mr Dale's likely defence involving a claim of LPP, and the likely attack on the credit of Ms Gobbo, the documents meeting the following criteria would be relevant and should be disclosed, subject to any claims for public interest immunity:
- information (if any) indicating that Ms Gobbo encouraged Mr Dale or any other criminal associates to believe that their communications were protected by LPP, notwithstanding that she was not formally retained as their legal advisor
 - information (if any) indicating that Ms Gobbo was a perpetrator or party to any criminal activity
 - information (if any) indicating that Ms Gobbo lied to investigators or police handlers.
4334. Ms Breckweg requested that the list be provided that afternoon.⁵⁴⁶¹
4335. Following this Mr Ashton formally requested the CDPP to proceed only with charges that did not rely upon the evidence of Ms Gobbo. He advised that the list requested by Ms Breckweg would take some days to complete. He presumed that if the CDPP did not proceed with Ms Gobbo's evidence the following week, that the list requested by Ms Breckweg would not be necessary. He said that if the list was necessary, they would require an adjournment to respond appropriately.⁵⁴⁶²
4336. That afternoon further discussions had taken place with the Mr Kirne and Ms Breckweg. It was determined that:
- a list was to be prepared for the prosecution which broadly described the contact with Ms Gobbo, which Mr Ashton would review
 - if there was any risk to Ms Gobbo, including though a claim of PII, the CDPP would withdraw the charges

⁵⁴⁶⁰ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 22 [126], VPL.0014.0077.0001 @.0022.

⁵⁴⁶¹ Exhibit RC0698 Email from Krista Breckweg to Boris Buick and Paul Sheridan, 4 November 2011, VPL.6031.0016.9197.

⁵⁴⁶² Exhibit RC0646 Operation Purana Update, Email from Mr Graham Ashton to Mr Shane Kirne, copied to Jeffrey (Jeff) Pope, Boris Buick, Ms Krista Breckweg, 4 November 2011, VPL.6031.0017.1009.

- if there was no risk the CDPP would seek to proceed with Ms Gobbo as a witness.
4337. Mr Ashton advised Mr Cartwright of the discussions. Mr Cartwright instructed Mr Ashton to ensure that the [REDACTED] Ms Gobbo prior to the commencement of the committal.⁵⁴⁶³
4338. Mr Ashton instructed Mr Pope that they should take steps to immediately prepare the list requested by Ms Breckweg. Mr Sheridan was then instructed by Mr Pope and together they met Mr O'Connor who was briefed as to what was required. Mr O'Connor then briefed Messrs Peter Smith and Anderson of the SDU about what was required. Mr Sheridan spoke with Superintendent Neil Paterson at the HSMU to arrange access to the relevant information.⁵⁴⁶⁴
4339. On 6 November 2011, Messrs O'Connor, Peter Smith, Anderson and Fox prepared the document required by the CDPP. Messrs Peter Smith, Anderson and Fox also contributed a few paragraphs about the SDU's experiences in handling Ms Gobbo. After signing off on the document, Mr O'Connor sent it to Mr Sheridan.⁵⁴⁶⁵

7 November 2011 – The O'Connor Document

4340. On 7 November 2011, Mr Ashton met with Mr Sheridan, and was provided with the O'Connor document along with a cover sheet prepared by Mr Sheridan, with the subject '*Summary re Witness F as requested by the Commonwealth DPP*'.⁵⁴⁶⁶
4341. In response to Ms Breckweg's first criterion referred to above, which sought information relating to Ms Gobbo's encouragement of Mr Dale or others that communications were protected by LPP whether or not she was formally retained as a legal advisor, the document:
- indicated Ms Gobbo had been an active human source managed by the SDU between 16 September 2005 to 14 January 2009, a period of 3 years and 4 months. Intelligence holdings indicated that 319 information reports had been disseminated to various investigators based upon information supplied by Ms Gobbo to handlers. There were 172 ICRs varying in length from 2 to 30 pages relating to week long periods of contact between Ms Gobbo and the SDU
 - the majority of the documents pertained to Ms Gobbo's contact with 164 criminals, solicitors or former members of police, the names of whom were listed in the document. It was said that 'it is difficult to

⁵⁴⁶³ RC0700, Email from Ms Krista Breckweg to Graham Ashton, cc Shane Kirne (CDPP), Vicky Argitis (CDPP), and Inspector Boris Buick, Subject: DALE, 4 November 2011, VPL.6031.0017.0408; Exhibit RC1275 Mr Tim Cartwright Driver Taskforce File, File Note, 4 October 2011, 47, VPL.0100.0013.0053 @.0104; Exhibit RC1275 Mr Tim Cartwright Driver Taskforce File, File note, 4 November 2011, 47, VPL.0100.0013.0053.

⁵⁴⁶⁴ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 19 [170], GLA.0006.0001.0001 @.0019; Exhibit RC0835 Statement of Detective Superintendent Paul Sheridan, 12 November 2019, 6 [31], VPL.0014.0087.0001 @.0001; Exhibit RC0795 Statement of Superintendent John O'Connor, 30 August 2019, 22 [126], VPL.0014.0077.0001 @.0022.

⁵⁴⁶⁵ Exhibit RC0795 Statement of Superintendent John O'Connor, 30 August 2019, 22 [127], VPL.0014.0077.0001 @.0022.

⁵⁴⁶⁶ Exhibit RC0347 Memorandum from Paul Sheridan to Graham Ashton attaching '*Summary Witness F as requested by the CDPP*' by John O'Connor, 6 and 7 November 2011, VPL.0010.0001.0075-0077.

assess the clear intention of the contact between the parties however the Source Development Unit believes that in the main the contact between the parties is driven by the fact that Witness F was practising as a solicitor at the time of the contacts and that her counsel was sought formally or informally pertaining to the legal status of the person involved eg. pending charges, negotiations with investigating police, plea opportunities, receiving and passing on of information etc'.

4342. In relation to Ms Breckweg's second criterion as to criminal activity the document stated that Ms Gobbo was suspected of being on the periphery of criminal matters throughout her time as a human source, however nothing was ever proven.
4343. In relation to Ms Breckweg's third criterion as to deceptive behaviour by Ms Gobbo the document stated that Ms Gobbo had failed to disclose to the SDU that she had previously acted as a conduit for communications and meetings between Mr Dale and Mr Carl Williams, and that Ms Gobbo admitted knowledge of the use of false phones when spoken to by Taskforce Petra investigators in November 2008.
4344. Mr Ashton stated that he was shocked by the content of the document, noting the extensive list of names which included many prominent figures in the Victorian criminal underworld. Later that day Mr Ashton was also updated as to the status of discussions between Ms Gobbo and the WSU, which remained at an impasse.

4345. **On the evidence, it is open for the Commissioner to find that, having received the O'Connor document, and being shocked by the contents of it, Mr Ashton was aware:**
- a. **that potentially many cases over and above those that he had discussed in the 3 November meeting with Mr McRae and Mr Cartwright may have been adversely impacted by the conduct of Ms Gobbo as a human source, and/or conduct of members of Victoria Police in handling and managing Ms Gobbo**
 - b. **that it was unlikely that this fact had been brought to the attention of the legal representatives of those people or the relevant prosecuting authorities**
 - c. **that in those circumstances, it was necessary to take all reasonable steps to make sure that his concerns about the content of the document were properly investigated and considered by appropriately qualified legal advisors briefed with all necessary information.**

8 November 2011 – Efforts by VicPol to have CDPP Withdraw Gobbo as a Witness

4346. On the morning of 8 November 2011, Mr Ashton received a briefing note from Mr Fryer requesting confirmation that Ms Gobbo would be withdrawn

as a witness.⁵⁴⁶⁷ He then met with Messrs Fryer, Buick, Frewen, Sheridan and Pope (by telephone) and discussed the risks if disclosure was made in relation to matters contained in the O'Connor document. They also discussed issues relating to the obligations of disclosure. Mr Ashton decided that Ms Gobbo should be withdrawn as a witness, and that he would meet with the CDPD to inform them of his decision.⁵⁴⁶⁸

4347. Later that morning, Mr Ashton and Mr Fryer met with Mr Kirne and Ms Breckweg. Mr Ashton advised that Victoria Police wanted Ms Gobbo withdrawn as a witness due to concerns about her safety. During the meeting Ms Breckweg indicated that she wanted the matter to proceed and Mr Ashton made clear the Victoria Police position was that Ms Gobbo was not to appear.⁵⁴⁶⁹
4348. Mr Ashton was asked whether he conveyed to the CDPD only concerns about Ms Gobbo's safety, or if he also expressed concern that other proceedings might be affected. He responded that he was talking to them about concerns for Ms Gobbo's safety.⁵⁴⁷⁰ However, it is apparent from conversations leading up to this time that Mr Ashton and others had significant concerns that Ms Gobbo's exposure as a human source, which during that period was only contemplated in respect of the Dale ACC proceeding, would have implications beyond the Dale ACC prosecution, including on other ongoing prosecutions and convictions. Mr Ashton sent a formal letter to Mr Kirne confirming his request.⁵⁴⁷¹
4349. Following the meeting Mr Ashton met with Messrs Cartwright and McRae and explained the position he had taken with the CDPD.⁵⁴⁷²
4350. Mr Ashton had further telephone calls throughout the afternoon with Mr Jim Duffy of the ACC, Mr Kirne and others from Victoria Police about the issue of withdrawing Ms Gobbo as a witness. Later that day Mr Ashton was told by Mr Kirne that having consulted his superiors in Canberra, the CDPD would not call Ms Gobbo as a witness. Mr Ashton confirmed this in a letter and instructed that a letter be prepared to advise Ms Gobbo that she was no longer required as a witness.⁵⁴⁷³

9 November 2011 – Withdrawal of Ms Gobbo as a Witness

4351. On 9 November 2011, Ms Gobbo was withdrawn as a witness in the Dale ACC prosecution, and a number of charges were consequently withdrawn.

⁵⁴⁶⁷ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 19 [175], GLA.0006.0001.0001 @.0019; Exhibit RC0702 Memorandum from Douglas (Doug) Fryer to Graham Ashton, 8 November 2011, VPL.0100.0136.0001.

⁵⁴⁶⁸ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 20 [176], GLA.0006.0001.0001 @.0020.

⁵⁴⁶⁹ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 20 [177]–[178], GLA.0006.0001.0001 @.0020.

⁵⁴⁷⁰ Transcript of Chief Commissioner Graham Ashton, 11 December 2019, 10899, TRN.2019.12.11.01.

⁵⁴⁷¹ Exhibit RC0703 Letter to Shane Kirne (CDPD) from Graham Ashton, 8 November 2011, VPL.0010.0001.0001 @.0089.

⁵⁴⁷² Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 20 [179], GLA.0006.0001.0001 @.0020.

⁵⁴⁷³ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 20 [180]–[183], GLA.0006.0001.0001 @.0020.

4352. On 10 November 2011, Mr Ashton was advised that Mr Dale had been committed for trial on the remaining charges.⁵⁴⁷⁴ Mr Cartwright emailed Mr Lay and others indicating this result, and that Ms Gobbo had not been required to give evidence, which he asserted would have posed a risk to her life. He said that Mr Ashton had worked very hard to ensure there was a mutually satisfactory outcome, balancing the desire to convict Mr Dale with the need to protect Ms Gobbo. Mr Lay emailed a congratulatory note to Mr Ashton.⁵⁴⁷⁵ Mr Cartwright sent a congratulatory note to Messrs Ashton and Fryer, copied to Messrs Pope and Sheridan, which also stated, 'as always the protection of life is paramount in decision making'.⁵⁴⁷⁶
4353. The prosecution continued to rely upon the recording of the conversation between Ms Gobbo and Mr Dale. No disclosure was made of material in the possession of Victoria Police which bore upon the defence claim that the conversation was protected by LPP.
4354. Mr Dale was ultimately acquitted after a trial the following year.

Failure to consider Disclosure in the Tony Mokbel Case

Evidence of Mr McRae

4355. Mr McRae indicated that during the meeting of 3 November 2011, his attention had been drawn to paragraphs in Mr Maguire's advice as to the potential consequences that disclosure of Ms Gobbo's conduct would have upon other convictions and prosecutions, such as that of Mr Tony Mokbel. Mr McRae agreed these consequences were quite significant.⁵⁴⁷⁷ He agreed that he was aware that Mr Tony Mokbel was seeking to change his plea at the time, and that this matter should have been brought to the attention of the State DPP.⁵⁴⁷⁸
4356. Mr McRae said he had not been tasked in relation to disclosure to Mr Tony Mokbel, indicating that if he had been, he would have written 'Action' in his notes. His conversations continued over the following days to work out what was to be done.⁵⁴⁷⁹ Mr McRae said that they decided to undertake a review to in order 'to get to the bottom of it', referring to the Comrie Review. It was put to Mr McRae that the Terms of Reference for the Comrie Review did not include within their scope the need to determine whether any cases had been affected which he did not accept.⁵⁴⁸⁰
4357. Mr McRae said he found out that disclosure had not been made to Mr Tony Mokbel when he checked with Mr Pope and Mr Gleeson after the Comrie Review had been completed in June or July 2012.⁵⁴⁸¹ He accepted there were occasions when it was appropriate to take action even where he had not been tasked. He said he did this the following year when he appreciated

⁵⁴⁷⁴ Exhibit RC0856 Statement of Chief Commissioner Graham Ashton, 30 August 2019, 20 [184], GLA.0006.0001.0001 @.0020.

⁵⁴⁷⁵ Exhibit RC1671 Email chain involving Tim Cartwright, Kenneth Lay, Graham Ashton and others, 10 November 2011, VPL.6022.0040.0739.

⁵⁴⁷⁶ Exhibit RC1671 Email chain involving Tim Cartwright, Kenneth Lay, Graham Ashton and others, 10 November 2011, VPL.6031.0017.7324.

⁵⁴⁷⁷ Transcript of Mr Findlay McRae, 31 January 2020, 12821, TRN.2020.01.31.01.

⁵⁴⁷⁸ Transcript of Mr Findlay McRae, 31 January 2020, 12821-12822, TRN.2020.01.31.01.

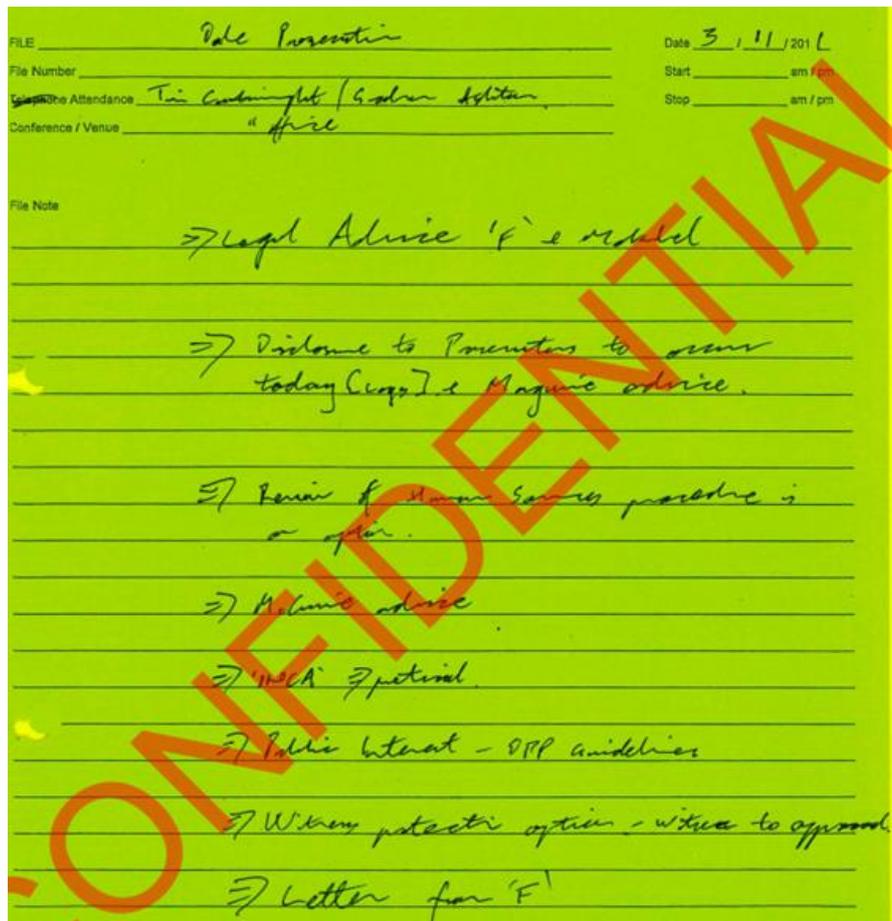
⁵⁴⁷⁹ Transcript of Mr Findlay McRae, 31 January 2020, 12829-12831, TRN.2020.01.31.01.

⁵⁴⁸⁰ Transcript of Mr Findlay McRae, 31 January 2020, 12833-12834, TRN.2020.01.31.01.

⁵⁴⁸¹ Transcript of Mr Findlay McRae, 31 January 2020, 12828, TRN.2020.01.31.01.

the police were in difficulty. He said at that point he took matters into his own hands as he could not wait any longer for instructions.⁵⁴⁸²

- 4358. It is submitted that the evidence demonstrates that in reality, whilst Mr McRae met with the DPP the following year, he never clearly conveyed to him the significance of the issue, which Mr Maguire had advised could impact upon the convictions of Mr Tony Mokbel and others, and had already led to the withdrawal of the charges against Mr Dale due to their reliance upon the evidence of Ms Gobbo.
- 4359. When it was suggested to Mr McRae that Mr Maguire could have been re-engaged to provide a more comprehensive written advice about whether any disclosure was required in Mr Tony Mokbel's matter, Mr McRae referred to it as a 'sliding door moment'.⁵⁴⁸³
- 4360. It is submitted that on one reading of Mr McRae's notes, there was discussion about getting a further legal advice in relation to Ms Gobbo and Mr Tony Mokbel. As can be seen below, the first matter refers to 'Legal Advice 'F' & Mokbel'. The fourth matter refers to the 'Maguire advice'. The evidence demonstrates that this did not occur.



⁵⁴⁸² Transcript of Mr Findlay McRae, 31 January 2020, 12829, TRN.2020.01.31.01.

⁵⁴⁸³ Transcript of Mr Findlay McRae, 31 January 2020, 12835-12836, TRN.2020.01.31.01.

Evidence of Mr Ashton

4361. Mr Ashton accepted he was aware there was litigation going on concerning Mr Tony Mokbel at this time,⁵⁴⁸⁴ and that by this point he was also aware that Ms Gobbo had been providing information to Victoria Police which had the potential of affecting convictions against Mr Tony Mokbel and others.⁵⁴⁸⁵
4362. Mr Ashton considered that he had discharged his obligation to deal with the issue by notifying his superior officer, Mr Cartwright, and the head of the legal department, Mr McRae.⁵⁴⁸⁶
4363. Mr Ashton said that he had recommended a review into the matter, which became the Comrie Review. It was put to Mr Ashton that the Comrie Review was an internal policy review, not a review or an advice as to the effect that Ms Gobbo's conduct had on cases. Mr Ashton responded that the Comrie Review was a first step to learn what they were dealing with.⁵⁴⁸⁷
4364. Mr Ashton denied that the steps taken following the receipt of the Maguire advice were aimed at resisting a full assessment and disclosure of the issues.⁵⁴⁸⁸
4365. He said that he believed he took the steps that were necessary for him to take once he had the information. When he was asked whether he was surprised then that those participating in those cases, such as the prosecutors, were not made aware of the information in relation to Mr Tony Mokbel in light of the Maguire advice. Mr Ashton responded that he did find that surprising.⁵⁴⁸⁹ However Mr Ashton had subsequent entries in his diary which make clear that he was aware that no disclosure was made to prosecutors in respect of Mr Tony Mokbel. On 22 November 2011 he recorded communication with the OPP in relation for the need for police representation at the Mokbel change of plea application.⁵⁴⁹⁰

Evidence of Mr Cartwright

4366. Mr Cartwright accepted that they had failed to create an action item in relation to the clear issue raised by Mr Maguire that Ms Gobbo was acting as both a legal representative and a human source for persons including Mr Tony Mokbel, who may have the right to bring an appeal.⁵⁴⁹¹
4367. Mr Cartwright said that he could not explain why there was no action item in respect of Mr Tony Mokbel, indicating that perhaps he had believed that the Comrie Review would deal with that concern.

⁵⁴⁸⁴ Transcript of Chief Commissioner Graham Ashton, 30 August 2019, 10642, TRN.2019.08.30.01.

⁵⁴⁸⁵ Transcript of Chief Commissioner Graham Ashton, 30 August 2019, 10643, TRN.2019.08.30.01.

⁵⁴⁸⁶ Transcript of Chief Commissioner Graham Ashton, 30 August 2019, 10643, TRN.2019.08.30.01.

⁵⁴⁸⁷ Transcript of Chief Commissioner Graham Ashton, 30 August 2019, 10643, TRN.2019.08.30.01.

⁵⁴⁸⁸ Transcript of Chief Commissioner Graham Ashton, 30 August 2019, 10644-10645, TRN.2019.08.31.01.

⁵⁴⁸⁹ Transcript of Chief Commissioner Graham Ashton, 30 August 2019, 10644, TRN.2019.08.30.01.

⁵⁴⁹⁰ Exhibit RC0861 Chief Commissioner Graham Ashton diary, 22 November 2011, 32, GLA.0001.0001.0093 @.0124.

⁵⁴⁹¹ Transcript of Mr Tim Cartwright, 14 February 2020, 14242, 14244, 14245, TRN.2020.02.14.01.

Failure to Consider Disclosure to Karam

Evidence of Mr McRae

4368. Mr McRae disagreed that he was tasked to do anything by Mr Cartwright, indicating that if he had been, he would have written 'Action' in his notes.⁵⁴⁹² What Mr McRae did write in his notes was '*Inca -> pre-trial*', which corresponds with a discussion about the concern that Ms Gobbo was a human source and also acting for an accused, and the potential need for disclosure. The next note by Mr McRae was '*Public Interest – DPP guidelines*', which is consistent with what Mr McRae would turn his mind to when considering the requirements of disclosure as tasked by Mr Cartwright. Mr McRae agreed there should have been disclosure to the CDDP, but not by him as he 'didn't have line of sight' after the meeting.⁵⁴⁹³

Evidence of Mr Ashton

4369. When Mr Ashton was asked how he came to raise the concerns relating to the Tomato Tins prosecution in the meeting, he indicated that he had developed concerns about Ms Gobbo's acting as a human source and a legal representative in that matter when he had randomly asked whether she had any involvement during a Driver Taskforce Steering Committee meeting. He said he asked the question as he knew the matter involved a range of organised crime figures.⁵⁴⁹⁴ It is apparent that this information was conveyed to the Driver Taskforce Steering Committee by Mr Buick, who heard it directly from Ms Gobbo.

4370. When asked what steps were taken to bring this matter to the attention of the CDDP, Mr Ashton suggested that he had disclosed the matter to Mr Kirne:⁵⁴⁹⁵

MR WINNEKE: You were at the meeting with Mr Kirne, weren't you?

MR ASHTON: Yes.

MR WINNEKE: It would have been a good opportunity for you to say, "Shane, I should tell you that we understand that you've got a matter, it's a big matter and we've got some information which we think you should know about", did you do that?

MR ASHTON: Shane Kirne was across all of our, all the matters that were going on in the Commonwealth.

MR WINNEKE: Is the answer to that question no? ---

MR ASHTON: I made sure – Mr Kirne was aware that she was a human source and that, yeah, and that he was aware of the matter of Inca.

⁵⁴⁹² Transcript of Mr Findlay McRae, 31 January 2020, 12829-12831, TRN.2020.01.31.01.

⁵⁴⁹³ Transcript of Mr Findlay McRae, 31 January 2020, 12832, TRN.2020.01.31.01.

⁵⁴⁹⁴ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10637-10638, TRN.2019.12.09.01.

⁵⁴⁹⁵ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10640, TRN.2019.12.09.01.

MR WINNEKE: Sorry to interrupt. Was Mr Kirne aware at that meeting that she was a human source, not only that, but she had been providing information which enabled the bringing of prosecutions against a number of people arising out of Inca, was he aware of that?

MR ASHTON: I didn't tell him that.

MR WINNEKE: Why not?

MR ASHTON: He was aware of the matters, Commonwealth matters and we were, I'd taken steps to make sure the matter was properly reviewed.

MR WINNEKE: What steps did you taken to make sure that this information which was discussed on 3 November, what steps did you taken to ensure, to satisfy yourself that the appropriate authorities in the Commonwealth were in fact aware of this information?

MR ASHTON: I reported it to my next in line, my superior officer was the Deputy Commissioner and I sought to ensure that Finn notified prosecuting agencies.

4371. Mr Ashton said that it was not his role to check that the information had been passed to the CDP, in his view that was a role for the Deputy Commissioner, Mr Cartwright.⁵⁴⁹⁶

4372. On 31 January 2012, Mr Ashton recorded that one of the Tomato Tins prosecution co-accused, John Higgs, was using Ms Gobbo as a go-between because of bail restrictions.⁵⁴⁹⁷

Evidence of Mr Cartwright

4373. Mr Cartwright said that he tasked Mr McRae to consider the Tomato Tins matter, and if it was necessary to make disclosure, or take the matter further.⁵⁴⁹⁸

4374. He was taken to evidence of Mr McRae who had suggested that Mr Cartwright may have later added the action item and not informed him. Mr Cartwright said that was not his way of working. Were he to add an action item following a meeting he would have telephoned Mr McRae and made a file note, or alternatively emailed Mr McRae.⁵⁴⁹⁹ Mr Cartwright said that in any case, this was an ongoing issue and should have been dealt with by Messrs Ashton and McRae.⁵⁵⁰⁰

⁵⁴⁹⁶ Transcript of Chief Commissioner Graham Ashton, 9 December 2019, 10640, TRN.2019.12.09.01.

⁵⁴⁹⁷ Exhibit RC0886 Chief Commissioner Graham Ashton diary summary, 31 January 2012, 9, VPL.6132.0041.4616 @.4624.

⁵⁴⁹⁸ Transcript of Mr Tim Cartwright, 18 February 2020, 14315, TRN.2020.02.18.01.

⁵⁴⁹⁹ Transcript of Mr Tim Cartwright, 14 February 2020, 14238, 14241, TRN.2020.02.14.01.

⁵⁵⁰⁰ Transcript of Mr Tim Cartwright, 14 February 2020, 14239-14240, TRN.2020.02.14.01.

Conclusion

4375. **On the evidence, it is open for the Commissioner to find that it was incumbent upon each of the participants in the 3 November meeting to satisfy himself that concerns raised in that meeting had been appropriately actioned, and each failed to do so.**

Late 2011 to 2012 – Resolution of the Mokbel/Marijancevic Issue

4376. As referred to above, in October 2011, Mr Tony Mokbel made application to withdraw his plea of guilty following the discovery of potential impropriety in the swearing of affidavits which may have rendered some evidence against him inadmissible.⁵⁵⁰¹

4377. The Supreme Court heard evidence over a number of months from October 2011 before ruling against Mr Tony Mokbel's application in March 2012. Numerous witnesses were called, including members and former members of the Purana Taskforce such as Messrs Flynn, Pearce, O'Brien and Ryan.⁵⁵⁰²

4378. Mr Ashton's diary on 22 November 2011 refers to the Chief Crown Prosecutor, Mr Peter Kidd QC, who was prosecuting the Mokbel case, having suggested that Victoria Police needed representation for the Mokbel change of plea application. The diary records that the DPP, Mr Coghlan, would be ringing to speak with Mr Ashton about the matter.

4379. **On the evidence, it is open to the Commissioner to find that Mr Ashton should have raised concerns that had been discussed in the meeting of 3 November, which would have been amplified after he read the contents of the O'Connor document, with Mr Coghlan when he had the opportunity to do so, as such matters may have been relevant to the question of whether Mr Mokbel should be entitled to change his plea.**

4380. **On the evidence, it is open to the Commissioner to find that Mr Ashton chose not to raise his concerns with the DPP and he did not do so.**

4381. **On the evidence, it is open to the Commissioner to find that there was a failure by officers in Victoria Police, who had knowledge of circumstances that were potentially were relevant to criminal proceedings against Mr Mokbel, to ensure that Mr Maguire's advice was followed up, and if necessary, either lawful disclosure was made**

⁵⁵⁰¹ *R v Mokbel (Change of Pleas)* [2012] VSC 86, [2].

⁵⁵⁰² *R v Mokbel (Change of Pleas)* [2012] VSC 86, [2].

to Mr Mokbel, or that advice was obtained from the OPP or the VGSO concerning issues of public interest immunity.

4382. On 3 July 2012, after unsuccessfully having tried to withdraw his plea of guilty, Mr Tony Mokbel was sentenced to a total effective sentence of 30 years' imprisonment with a total effective non-parole period of 22 years.⁵⁵⁰³

⁵⁵⁰³ *R v Mokbel* [2012] VSC 255.

CHAPTER 21 – 2011 TO 2016: FROM COMRIE TO COURT

Gobbo Continues to Offer to Give Evidence

2011 - Gobbo advises DPP she has a long history assisting police; willing to assist re Hodsons

4383. Although Ms Gobbo was informed that she was not going to be called as a witness on 9 November 2011, she continued to offer to make statements in relation to the murders of Terrence and Christine Hodson (the Hodsons).⁵⁵⁰⁴ This included writing to the then DPP, Mr John Champion on 30 September 2011⁵⁵⁰⁵ and copying the DPP in on correspondence she sent to Victoria Police in 2012.
4384. The DPP noted that the initial letters written in 2011 by Mr Alex Lewenberg, Ms Gobbo's solicitor, did not explicitly identify Ms Gobbo.⁵⁵⁰⁶

The Catalyst – The Maguire Advice

4385. On 3 November 2011, Mr Cartwright, then Mr Ashton and Mr McRae met to discuss Mr Gerard Maguire's advice of 4 October 2011.⁵⁵⁰⁷
4386. At the meeting, Mr Ashton recommended that urgent consideration be given to providing a copy of the relevant log entries to the prosecutor for the purpose of determining whether disclosure was required in the interest of fairness.⁵⁵⁰⁸
4387. The meeting on 3 November 2011 was the catalyst that led to the commissioning of the independent case review of Victoria Police's involvement with Ms Gobbo (the Comrie Review).⁵⁵⁰⁹
4388. Mr McRae said that the Comrie Review was intended to be a largely desktop review to provide an independent assessment of the adequacy of Victoria Police's policy, procedures and guidelines and relevant processes as they related to all aspects of the recruitment and tasking of human sources, such as Ms Gobbo.⁵⁵¹⁰

⁵⁵⁰⁴ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 1 [5]-[6], 2 – 3 [13]-[17], RCMPI.0104.0001.0001 @.0001 - .0003.

⁵⁵⁰⁵ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 83, RCMPI.0104.0001.0001 @.0083.

⁵⁵⁰⁶ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 1-2, [5]-[9], RCMPI.0104.0001.0001 @.0001 - .0002.

⁵⁵⁰⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 30 [5.13], VPL.0014.0089.0003 @.0032.

⁵⁵⁰⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 30 [5.14], VPL.0014.0089.0003 @.0032.

⁵⁵⁰⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 31 [6.1], VPL.0014.0089.0003 @.0033.

⁵⁵¹⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 31 [6.2], VPL.0014.0089.0003 @.0033.

4389. Mr McRae conceded that if they had asked someone like Mr Maguire to conduct a review of the cases, it 'might have brought forward the disclosure he made to the DPP by 9 months'.⁵⁵¹¹

Comrie and Gleeson Appointed

4390. Former Chief Commissioner Neil Comrie AO, APM was identified as an appropriate person to conduct the review.⁵⁵¹² Mr McRae nominated then Superintendent Steve Gleeson to support Mr Comrie in the review.⁵⁵¹³
4391. Messrs Comrie and Gleeson were not lawyers but Mr McRae noted that Mr Gleeson had access to any legal advice that he wanted.⁵⁵¹⁴ Further, Mr McRae said that they felt it was important that they had someone who could read the coded materials of the SDU.⁵⁵¹⁵

Development of the Terms of Reference

November 2011 - Cartwright Tasks Pope with Drafting Terms of Reference

4392. On 16 November 2011, Mr Cartwright instructed then Assistant Commissioner Jeff Pope to draft the Terms of Reference.⁵⁵¹⁶
4393. Mr McRae conceded that in hindsight, it would have been better if Mr Pope was not involved in drafting the Terms of Reference because of his prior interactions with Ms Gobbo.⁵⁵¹⁷
4394. Mr Pope developed the initial draft of the Terms of Reference and provided it to Mr McRae on 21 November 2011, prior to then Chief Commissioner Ken Lay's planned meeting with Mr Comrie to discuss the review on 22 November 2011.⁵⁵¹⁸
4395. In his statement, Mr Lay stated that he knew that Ms Gobbo had been a human source by November 2011 when discussions began with him about asking Mr Comrie to conduct the review.⁵⁵¹⁹
4396. On 24 November 2011, Mr McRae emailed Mr Pope suggesting that Mr Gleeson work on settling the Terms of Reference as he would be the Victoria Police support person for Mr Comrie.⁵⁵²⁰

⁵⁵¹¹ Transcript of Mr Findlay, McRae, 31 January 2020, 12836, TRN.2020.01.31.01.

⁵⁵¹² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 31 [6.3], VPL.0014.0089.0003 @.0033; Transcript of Mr Findlay McRae, 3 February 2020, 12867, TRN.2020.02.03.01.

⁵⁵¹³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 31 [6.3], VPL.0014.0089.0003 @.0033.

⁵⁵¹⁴ Transcript of Mr Findlay McRae, 3 February 2020, 12872, TRN.2020.02.03.01.

⁵⁵¹⁵ Transcript of Mr Findlay McRae, 3 February 2020, 12872, TRN.2020.02.03.01.

⁵⁵¹⁶ Exhibit RC1289 Email from Tim Cartwright to Findlay McRae, Graham Ashton and Jeffrey (Jeff) Pope, 16 November 2011, VPL.6027.0015.9005.

⁵⁵¹⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12867, TRN.2020.02.03.01.

⁵⁵¹⁸ Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 27 [90], COM.0010.0001.0001 @.0027.

⁵⁵¹⁹ Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 3 [16], VPL.0014.0119.0001 @.0003.

⁵⁵²⁰ Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 27 [91], COM.0010.0001.0001 @.0027; Exhibit RC1143 Email from Findlay McRae to Jeffrey (Jeff) Pope, 24 November 2011, VPL.6027.0025.9038.

4397. On 29 November 2011, Mr Gleeson emailed Mr Pope and provided his thoughts on the draft Terms of Reference.⁵⁵²¹

The terms of reference should include the need for some comparative analysis of what other jurisdictions have in place for the management, control, interaction for human sources including any public interest tests and trigger points that may activate such considerations.

4398. On 6 December 2011, Mr Lay emailed Mr Pope advising that he had met with Mr Comrie that morning and that Mr Comrie had agreed to undertake the review.⁵⁵²² Messrs McRae and Pope met with Mr Comrie in December 2011 and further refined the scope of the review.⁵⁵²³
4399. On 20 January 2012, Mr Pope prepared a further draft version of the Terms of Reference which included a reference to the Maguire advice. The final version of the Terms of Reference contained no reference to Mr Maguire's advice.⁵⁵²⁴ Mr McRae was unclear as to why the changes were made to the Terms of Reference.⁵⁵²⁵

February 2012 – Gleeson Revises Terms of Reference and Circulates for Review

4400. In early February 2012, Mr Pope received an email from Mr Gleeson advising him that following conversations with Mr Comrie, Mr Hotham (in charge of the Human Source Management Unit), and the VGSO, he was providing a revised Terms of Reference for review.⁵⁵²⁶ Mr Pope responded with comments regarding control measures on 3 February 2012.⁵⁵²⁷
4401. Mr Gleeson said that the initial Terms of Reference were quite broad and would have involved reviewing a number of human source files in a limited amount of time (February – April 2012).⁵⁵²⁸ Mr Gleeson was concerned by this and sought to narrow the Terms of Reference to enable a focus on the key issues.⁵⁵²⁹
4402. Mr Gleeson identified the key issues that emerged in discussions with Messrs McRae and Pope and Mr Paterson.⁵⁵³⁰

⁵⁵²¹ Exhibit RC1694 Email from Stephen Gleeson to Jeffrey (Jeff) Pope and Findlay McRae, 29 November 2011, VPL.6023.0138.4046.

⁵⁵²² Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 27 [93], COM.0010.0001.0001 @.0027.

⁵⁵²³ Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 27 [93], COM.0010.0001.0001 @.0027.

⁵⁵²⁴ Exhibit RC1313 Email from Jeffrey (Jeff) Pope to Findlay McRae, 20 January 2012, 21, VPL.0100.0001.0493 @.0513.

⁵⁵²⁵ Transcript of Mr Findlay McRae, 3 February 2020, 12868, TRN.2020.02.03.01.

⁵⁵²⁶ Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 28 [94], COM.0010.0001.0001 @.0028.

⁵⁵²⁷ Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 28 [94], COM.0010.0001.0001 @.0028; Exhibit RC1144b Email from Jeffrey (Jeff) Pope to Stephen Gleeson, 3 February 2012, VPL.6027.0019.9768.

⁵⁵²⁸ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 4-5 [19], VPL.0014.0084.0001 @.0004 - .0005.

⁵⁵²⁹ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 4-5 [19], VPL.0014.0084.0001 @.0004 - .0005.

⁵⁵³⁰ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 4-5 [19], VPL.0014.0084.0001 @.0004 - .0005.

- a) *The process and associated issues whereby a human source may transition to become a witness including the adequacy of controls and risk recognition arrangements and mitigation for such instances*
- b) *The adequacy of existing human source policies, procedures, instructions and control measures, including actual management and operational practises utilised, having regard to the particular professional standing of 3838.*

4403. It is clear that the terms were not drafted with a view to examining questions that had been raised in Mr Maguire's advice, being the possibility that Ms Gobbo's conduct as a human source may have affected criminal prosecutions.

4404. In early February 2012, Mr Pope met with Mr Comrie to finalise arrangements with him.⁵⁵³¹

4405. While Mr Pope was away, Mr Paterson was Acting Assistant Commissioner and signed off on the final Terms of Reference.⁵⁵³²

Final Terms of Reference Focus on Establishing Better Practices regarding Human Sources, as Informed by Gobbo Problems

4406. The final Terms of Reference were:⁵⁵³³

⁵⁵³¹ Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 28 [95], COM.0010.0001.0001 @.0028.

⁵⁵³² Exhibit RC1306 Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 28 [97], COM.0010.0001.0001 @.0028.

⁵⁵³³ Exhibit RC0888 Terms of Reference for Comrie Review, VPL.0005.0013.1429.

PROTECTED

Terms of Reference for Independent Case Review

Policing jurisdictions worldwide utilise informers (human sources) and recognise this to be a legitimate and effective means to gather investigative information and intelligence.

Victoria Police is cognisant of the complexities and potentially significant risks associated to the use of human sources and has a suite of policies, procedures and instructions in place to provide guidance for their effective and accountable usage and to mitigate risk.

Victoria Police has established a Human Source Management Unit with responsibilities for the registration of all sources and oversight of associated policies and training. The full time management of those human sources deemed to be high risk becomes the responsibility of a dedicated unit known as the Source Development Unit (SDU).

Human source 3838 (from here on in referred to as 3838) was a high risk source being utilised by Victoria Police under the primary management of the SDU. A Victoria Police Task Force conducting a high profile investigation identified value in 3838 becoming a witness as to give evidence. This meant that 3838 would transition from the category of a human source, to that of a (protected?) witness.

Outcomes envisaged from the utilisation of 3838 as a witness were not achieved. This was due to various reasons including the preparedness of 3838 to provide the evidence sought and consideration of competing priorities, including the balancing of risks to particular individuals.

Complexities also arose as a consequence of the particular professional standing of 3838.

Victoria Police disentanglement from 3838 continues to be a complicated and costly process requiring ongoing management. This has also involved 3838 instigating civil action against Victoria Police.

Victoria Police now seeks an independent review to consider and provide advice upon specific aspects of this 3838 matter. This review is to focus on:

1. The process and associated issues whereby a human source may transition to become a witness including the adequacy of controls and risk recognition arrangements and mitigation for such instances.
2. The adequacy of existing human source policies, procedures, instructions and control measures, including actual management and operational practices utilised, having regard to the particular professional standing of 3838.

Whilst this review is primarily focussed on the 3838 matter, in order to provide a balanced and objective assessment of usual process, it may also entail consideration of a sampling of other high-risk human source files.

This review may also involve consideration of specific human source management arrangements in place in other jurisdictions with a view to determining best practice for such aspects for Victoria Police.

Gobbo Continues to Offer Assistance

September to December 2011 - Gobbo Offering Assistance to DPP

4407. In a letter dated 30 September 2011, Lewenberg and Lewenberg solicitors wrote to the DPP advising that they acted:

for a person who until recently was reluctant to provide evidence that may assist in apprehending the person or persons who might have been involved in the murder of the Hodsons. ...

the person is prepared now to give assistance to Law Enforcement Authorities. Our client's prime motivation in doing so in making the offer to assist is to seek payment of the reward for the giving of the information.

4408. The letter did not name the person, and at the time of receiving the letter, Mr Champion did not know (as was the case) that the person was Ms Gobbo.⁵⁵³⁴ Thereafter in a series of letters exchanged between Mr Champion and Mr Lewenberg, from 7 October 2011 to 16 December 2011, attempts were made to have this offer explored. At no stage in these communications was the person identified, and Mr Champion remained, as he pointed out in his last letter, in ignorance of who it was. He also pointed out that the appropriate course would be for Mr Lewenberg's client to contact senior investigators in the Driver Taskforce and make a statement.

⁵⁵³⁵

February 2012 - Gobbo Identifies Herself

4409. The first time that Ms Gobbo's name was used in any correspondence from Mr Lewenberg was in a letter dated 27 February 2012 to Mr Champion, confirming Ms Gobbo's preparedness to give evidence to assist in the arrest and conviction of those responsible for the murders of the Hodsons.⁵⁵³⁶ Attached to this letter was correspondence from Ms Gobbo to the then Deputy Commissioner of Police, Kieran Walshe, dated 21 February 2012, in which Ms Gobbo stated:⁵⁵³⁷

during 2008 I enjoyed a full life, good health... and a very busy career at the Bar in addition to vast amounts of time assisting your organisation

4410. In the information provided to the Commission, the current DPP, Ms Kerri Judd, noted that at this time, neither Mr Champion, nor those advising him, knew of any assistance that Ms Gobbo had provided to Victoria Police, other than as a witness in respect of the prosecution of Mr Dale for the murder of the Hodsons.⁵⁵³⁸

⁵⁵³⁴ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 1 [5], RCMP1.0104.0001.0001 @.0005.

⁵⁵³⁵ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 1-3 [7] – [17], RCMP1.0104.0001.0001 @.0001 - .0003.

⁵⁵³⁶ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 3 [18], RCMP1.0104.0001.0001 @.0003.

⁵⁵³⁷ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 3 [19], RCMP1.0104.0001.0001 @.0003; Exhibit RC1104 Letter to Deputy Commissioner Kieran Walshe from Ms Nicola Gobbo, 21 February 2012, VPL.0005.0013.1437.

⁵⁵³⁸ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 3 [20], RCMP1.0104.0001.0001 @.0003.

Orman Subpoena regarding Gobbo's Dealings with Thomas

Police Avoid Disclosing Information Known to Them in Response to Subpoena

4411. In early 2012 another issue of disclosure arose when Mr Orman issued a subpoena in pending trial proceedings. Mr Orman had been convicted and sentenced for the murder of Mr Victor Peirce and was to undergo trial for the murder of Mr Paul Kallipolitis.⁵⁵³⁹ Mr Thomas was again to be the primary witness against him.⁵⁵⁴⁰

4412. The subpoena issued by Mr Orman's defence team sought information reports and intelligence products relating to Ms Gobbo's dealings with Mr Thomas (Orman subpoena).⁵⁵⁴¹ As is clear, by this stage, Victoria Police had received the Maguire advice and the Comrie Review was underway.

4413. On 2 March 2012, then Detective Senior Constable Tony Hupfeld sent a copy of the Kallipolitis subpoena to then Detective Senior Sergeant Boris Buick. On the same day, Mr Buick forwarded the email to then Detective Inspector Stuart Bateson.⁵⁵⁴² In his email to Mr Bateson, Mr Buick noted:⁵⁵⁴³

At first glance, I would guess that Victoria Police possesses no material relating to discussions between Gobbo and Thomas (because they would be privileged) and certainly none relating to disclosure by Gobbo to Thomas?

4414. Mr Buick told the Commission that Victoria Police considered the subpoena a 'fishing exercise' by the defence, in part because it requested coercive examination materials for hearings that never happened.⁵⁵⁴⁴

4415. Mr Buick sent a copy of the subpoena to Mr Gerard Maguire of counsel.⁵⁵⁴⁵

4416. On 5 March 2012, Mr Buick forwarded the subpoena request to the HSMU and stated:⁵⁵⁴⁶

Are you able to confirm whether any such documents exists please? Clearly PII will be claimed should any such documents exist.

4417. On 5 March 2012, Mr Paterson instructed Mr Hotham to arrange with the VGSO to urgently brief Mr Maguire in relation to the subpoena.⁵⁵⁴⁷ Mr Paterson requested that he be informed of progress.⁵⁵⁴⁸

⁵⁵³⁹ Exhibit RC1845 Office of Public Prosecutions Victoria, Charge Sheet, Faruk Orman, 8 May 2008, OPP.0002.0002.0260.

⁵⁵⁴⁰ Exhibit RC1837 Crown Opening, *R v Faruk Orman*, 14 February 2011, OPP.0002.0002.0248.

⁵⁵⁴¹ Exhibit RC1870 Subpoena to the Chief Commissioner of Police, filed on behalf of Faruk Orman, 24 February 2012, VPL.6031.0004.5687.

⁵⁵⁴² Exhibit RC0708 Email from Tony Hupfeld to Boris Buick, forwarded to Stuart Bateson, forwarded to Gerard Maguire, 2 March 2012, VPL.6031.0004.1843.

⁵⁵⁴³ Exhibit RC0708 Email from Tony Hupfeld to Boris Buick, forwarded to Stuart Bateson, forwarded to Gerard Maguire, 2 March 2012, VPL.6031.0004.1843.

⁵⁵⁴⁴ Transcript of Inspector Boris Buick, 11 November 2019, 8957, TRN.2019.11.11.01.

⁵⁵⁴⁵ Exhibit RC0708 Email from Tony Hupfeld to Boris Buick, forwarded to Stuart Bateson, forwarded to Gerard Maguire, 2 March 2012, VPL.6031.0004.1843.

⁵⁵⁴⁶ Exhibit RC0710 Email from Boris Buick to SDU, 5 March 2012, VPL.6031.0023.3118.

⁵⁵⁴⁷ Exhibit RC0711 Email from Neil Paterson to Mr Hotham, 5 March 2012, VGSO.5000.0010.7035.

⁵⁵⁴⁸ Exhibit RC0711 Email from Neil Paterson to Mr Hotham, 5 March 2012, VGSO.5000.0010.7035.

4418. On 6 March 2012, Mr Hotham sent an email to the VGSO setting out his initial views on issues arising from the subpoena in which he stated: ⁵⁵⁴⁹

I am almost certain (reading b/w the lines) that members such as Stuart Bateson, Boris etc must have had some communication directly with F where Thomas was mentioned? I think Boris might have to think a little more laterally about notes/recordings in existence'

Discussions with Crime must be held without any reference to human sources or F dealing with members of ICSD – this knowledge won't assist them or impact upon their response to the subpoena

...

I am investigating whether we have already been down this path with another subpoena linked to Petra, something rings a chord with me. I am aware of a list of entities that has been put together that may be affected by Vicpol dealings with F. I may be able to determine how many 'live' matters could be impacted by a disclosure. It may not be as extensive as first thought. Irrespective, any disclosure will hurt us significantly

Hotham's Evidence regarding Non-Disclosure in Response to Subpoena

4419. In his statement to the Commission, Mr Hotham said that the comment regarding disclosure was made because of his role in managing disclosure 'holistically'.⁵⁵⁵⁰
4420. Mr Hotham was also of the view that the Crime Command and Intelligence and Covert Support Department should provide responsive material separately as 'this would mean the subpoena is properly complied with without any need to unnecessarily disclose to investigators at Crime the fact that Ms Gobbo was a human source and compromise the human source&l program by doing so'.⁵⁵⁵¹
4421. Mr Hotham also sought advice from senior Victoria Police intelligence manager, Amy Gledden about the meaning of 'intelligence product'.⁵⁵⁵² Based on this advice, he argued that the human source file for Ms Gobbo held by the HSMU was not an 'intelligence product' and therefore did not need to be disclosed in response to the subpoena.⁵⁵⁵³

⁵⁵⁴⁹ Exhibit RC0712 Email from Hotham to Shaun LeGrand, 6 March 2012, VGSO.5000.0033.0154.

⁵⁵⁵⁰ Exhibit RC1254 Statement of Mr Hotham, 15 November 2019, 11 - 12 [67], VPL.0014.0092.0001 @.0011 - .0012.

⁵⁵⁵¹ Exhibit RC1254 Statement of Mr Hotham, 15 November 2019, 11 [65], VPL.0014.0092.0001 @.0011.

⁵⁵⁵² Exhibit RC1254 Statement of Mr Hotham, 15 November 2019, 12 [69], VPL.0014.0092.0001 @.0012.

⁵⁵⁵³ Exhibit RC1254 Statement of Mr Hotham, 15 November 2019, 10 - 13 [62]-[74], VPL.0014.0092.0001 @.0010 - .0013.

Buick's Evidence regarding Non-Disclosure in Response to Subpoena

4422. On 13 March 2012, Mr Buick informed then Inspector John O'Connor that the HSMU had replied that they did not have anything.⁵⁵⁵⁴ Mr Buick acknowledged that the SDU would have had substantial holdings that were relevant to the subpoena but considered that the HSMU was separate.⁵⁵⁵⁵

Orman Case Does Not Proceed

4423. Ultimately in 2013, the case against Mr Orman was withdrawn. Mr Buick told the Commission this was not because of a desire to 'hide' Ms Gobbo's role, but because of other issues associated with the prosecution.⁵⁵⁵⁶

Progress of the Comrie Review

4424. On 15 March 2012, Mr Gleeson updated Messrs Pope and McRae regarding the progress of the review.⁵⁵⁵⁷ Mr Gleeson stated that the Interpose database recorded daily conversations with the source (sometimes six or more separate and lengthy calls per day, seven days per week) and that to date, he had reduced thousands of pages of contact to a summarised account of about 60 pages. Mr Gleeson also flagged the issues that were arising outside the scope of the Terms of Reference that should be followed up in 'other environments'.

4425. On 17 April 2012, Mr Gleeson sent a further email update as to progress.⁵⁵⁵⁸ Mr Gleeson said that he had almost completed his review of Interpose and needed to consider the policies, procedures and controls in place and speak to some key personnel from the HSMU and WSU. Mr Gleeson noted that he was settling a letter to VGSO to secure the particular advice needed.

4426. On 30 April 2012, Mr Gleeson sent a further update to Messrs Pope and McRae regarding the progress of the review.⁵⁵⁵⁹ In this update, Mr Gleeson noted that as far as he could tell, an Acknowledgement of Responsibility was not done and the initial Risk Assessment processes did not pick up on any issues surrounding the use of a source that may owe a professional duty to clients and the administration of justice.

DPP Updated

May 2012 – Correspondence with Victoria Police Provided to the DPP

4427. On 4 May 2012, a letter from Mr Walshe to Ms Gobbo dated 26 April 2012 was provided to Mr Champion.⁵⁵⁶⁰ In the 26 April 2012 letter, Mr Walshe

⁵⁵⁵⁴ Exhibit RC0714 Email from Boris Buick to SDU, forwarded to John O'Connor, 13 March 2012, VPL.6031.0023.3261.

⁵⁵⁵⁵ Transcript of Inspector Boris Buick, 11 November 2019, 8969, TRN.2019.11.11.01.

⁵⁵⁵⁶ Transcript of Inspector Boris Buick, 11 November 2019, 8972, TRN.2019.11.11.01.

⁵⁵⁵⁷ Exhibit RC1153 Email from Stephen Gleeson to Jeffrey (Jeff) Pope and Findlay McRae, 15 March 2012, VPL.6072.0004.2104.

⁵⁵⁵⁸ Exhibit RC1695 Email from Stephen Gleeson to Jeffrey (Jeff) Pope, copying Findlay McRae, 17 April 2012, VPL.0100.0040.0596.

⁵⁵⁵⁹ Exhibit RC1108 Email from Stephen Gleeson to Jeffrey (Jeff) Pope and Findlay McRae, 30 April 2012, VPL.6023.0003.0750.

⁵⁵⁶⁰ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 3 [21] RCMP.0104.0001.0001 @.0003; Exhibit RC1107 Letter from Deputy Commissioner Kieran Walshe to Nicola Gobbo, 26 April 2012, VPL.0005.0195.1100.

confirmed that Victoria Police did not require any further information or assistance from Ms Gobbo at that stage and that the history in Ms Gobbo's letter 'does not necessarily accord with the history from the perspective of Victoria Police'.⁵⁵⁶¹

4428. On 24 May 2012, a letter from Ms Gobbo to Mr Walshe dated 20 May 2012 was provided to Mr Champion.⁵⁵⁶² In Ms Gobbo's letter dated 20 May 2012, she stated that:

I remind you that the facts will speak for themselves and they can be referenced in hundreds of hours of covert recordings made by your members each time they met with me...

4429. In the information provided to the Commission, Ms Judd noted that in May 2012, neither Mr Champion, nor those advising him, knew of any facts that explained why Victoria Police had 'hundreds of hours of covert recordings'.⁵⁵⁶³

SDU Criticisms of Comrie's Role

SDU Suggestion that Comrie Used to 'Rubber Stamp' Review with Imprimatur of Independence

4430. Suggestions were made by Counsel acting for the SDU officers that Mr Comrie was merely a 'rubber stamp' to give Mr Gleeson's work the air of independence, citing a bill issued by Mr Comrie for only 5 days' work on the review.⁵⁵⁶⁴
4431. Mr McRae gave evidence to the Commission that anyone who had ever met Mr Comrie would find the concept of him 'rubber stamping' anything very odd.⁵⁵⁶⁵
4432. Mr McRae also gave evidence to the Commission that Mr Gleeson drafted the report section by section, discussing them with Mr Comrie as they were written and at the end, Mr Comrie assessed and finalised the report as a whole.⁵⁵⁶⁶
4433. With respect to Mr Comrie's bill, Mr McRae said that 'Mr Comrie's billing is, we found, almost embarrassing, that he would charge us so little for such a comprehensive report'.⁵⁵⁶⁷

⁵⁵⁶¹ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 3 [21] RCMP1.0104.0001.0001 @.0003; Exhibit RC1107 Letter from Deputy Commissioner Kieran Walshe to Nicola Gobbo, 26 April 2012, VPL.0005.0195.1100.

⁵⁵⁶² Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 4 [22] RCMP1.0104.0001.0001 @.0004; Exhibit RC1109 Letter from Nicola Gobbo to Deputy Commissioner Kieran Walshe, 20 May 2012, VPL.0002.0001.1194.

⁵⁵⁶³ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 4 [23] RCMP1.0104.0001.0001 @.0004.

⁵⁵⁶⁴ Transcript of Mr Findlay McRae, 4 February 2020, 13097, TRN.2020.02.02.01.

⁵⁵⁶⁵ Transcript of Mr Findlay McRae, 5 February 2020, 13226, TRN.2020.02.05.01.

⁵⁵⁶⁶ Transcript of Mr Findlay McRae, 5 February 2020, 13226 - 13227, TRN.2020.02.05.01.

⁵⁵⁶⁷ Transcript of Mr Findlay McRae, 5 February 2020, 13227, TRN.2020.02.05.01.

4434. Mr Gleeson's statement to the Commission also makes reference to ongoing supervision he had from Mr Comrie.⁵⁵⁶⁸

SDU Concerns They Were Not Consulted during Comrie Review

4435. The evidence demonstrated that the SDU held concerns that they were not consulted during the conduct of the Comrie Review.

4436. As noted above, Mr McRae said that this was meant to be a 'desktop exercise'.

4437. Mr Gleeson said that he did not consult with members of the SDU at the outset because the review was not intended to be a forensic level investigation of what had taken place with Ms Gobbo or a prescriptive criminal or disciplinary investigation.⁵⁵⁶⁹ Mr Gleeson also noted that once he had reviewed the written material he did not think it was appropriate to then speak to a particular member because what he had seen on the file could potentially give rise to disciplinary or criminal proceedings.⁵⁵⁷⁰ Mr Gleeson stated that he:⁵⁵⁷¹

was acutely aware that my interviewing members about serious issues in the context of a limited review and in the absence of all relevant material could have compromised any future investigations or proceedings. Extensive investigations and personal interviews were also well beyond the scope of this systems and process focused review.

Input of Biggin to Comrie Review

4438. Mr Biggin told the Commission that Mr Gleeson had spoken to him and he had provided written responses addressing some of the concerns Mr Gleeson raised with him in May 2012.⁵⁵⁷²

4439. On 2 May 2012, Mr Gleeson sent Mr Biggin some questions to prompt discussion about the SDU's management of Ms Gobbo.⁵⁵⁷³

4440. On 3 May 2012, Mr Gleeson and Mr Biggin met for around an hour and discussed this same topic.⁵⁵⁷⁴

⁵⁵⁶⁸ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 9 – 10 [39], VPL.0014.0084.0001 @.0009 - .0010.

⁵⁵⁶⁹ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 5 [24], VPL.0014.0084.0001 @.0005.

⁵⁵⁷⁰ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 11 – 12 [49], VPL.0014.0084.0001 @.0011 - .0012.

⁵⁵⁷¹ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 11 – 12 [49], VPL.0014.0084.0001 @.0011 - .0012.

⁵⁵⁷² Transcript of Mr Anthony (Tony) Biggin, 10 October 2019, 7715, TRN.2019.10.10.01.

⁵⁵⁷³ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 10 [42], VPL.0014.0084.0001 @.0010.

⁵⁵⁷⁴ Not tendered Superintendent Stephen Gleeson diary, 3 May 2012, 1, VPL.0005.0198.0001 @.0001.

9- 10 May – Biggin Sends Memo to Gleeson

4441. On 9 and 10 May 2012, Mr Biggin sent him written responses.⁵⁵⁷⁵
4442. Mr Gleeson said he had concerns with Mr Biggin's responses because they appeared to be inconsistent with what he had read in contact reports relating to Ms Gobbo.
4443. Mr Gleeson did not, however, go back to Mr Biggin with these concerns, apparently because it was not the purpose of the review to single out individuals or to make findings about what specific individuals had done.⁵⁵⁷⁶
4444. Mr Gleeson said that as part of his role in relation to the Comrie Review, he discussed human source management processes in detail with Mr Sheridan, who was in charge of the Covert Services Division, which included the SDU.⁵⁵⁷⁷
4445. On 30 May 2012, Mr Gleeson discussed issues that he had seen in reviewing the material in Ms Gobbo's source file with Mr Sheridan.⁵⁵⁷⁸ They discussed the Acknowledgement of Responsibility requirements, the compilation of risk assessments, contact report process, source management log process and the Corporate Management Review Decision.⁵⁵⁷⁹

Gleeson's 'Out of Scope' Report

'Out of Scope' Concerns Emerge as Comrie Review Progresses

4446. As the Comrie Review progressed, Messrs Gleeson and Comrie identified a range of apparent problems that went beyond the scope of the Terms of Reference, some of which may have required reporting to the OPI.⁵⁵⁸⁰
4447. On 4 June 2012, Mr Gleeson raised issues arising from the Biggin memo and the SDU SWOT analysis with Mr McRae.
4448. Mr Gleeson also raised concerns about the fact that the problems highlighted by these documents appeared to have been raised with Messrs Overland, Cornelius, Moloney and Ashton, and yet nothing had been done.

⁵⁵⁷⁵ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 10 [43], VPL.0014.0084.0001, .0010.

⁵⁵⁷⁶ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 10 [43], VPL.0014.0084.0001, .0010.

⁵⁵⁷⁷ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 11 [45], VPL.0014.0084.0001 @.0011.

⁵⁵⁷⁸ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 11 [45], VPL.0014.0084.0001 @.0011; Exhibit RC1820 Mr Stephen Gleeson's file note of meeting with Mr Paul Sheridan, 30 May 2012, VPL.0100.0001.0472.

⁵⁵⁷⁹ Exhibit RC1820 Mr Stephen Gleeson's file note of meeting with Mr Paul Sheridan, 30 May 2012, VPL.0100.0001.0472.

⁵⁵⁸⁰ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 14 [60], VPL.0014.0084.0001 @.0014.

6 June 2012 –VGSO Provide Advice to Gleeson

4449. On 6 June 2012, Mr Gleeson received legal advice from Mr David Ryan (Managing Principal Solicitor at the VGSO) that he had requested as part of the Comrie Review.⁵⁵⁸¹ The effect of the advice was:

- the duties that a lawyer owes to the Court and to their clients are likely to impose significant limitations on the use that could be made by Victoria Police of a human source that is a member of the legal profession
- subject to some limited exceptions, a lawyer who has been recruited as a human source would be under a duty not to disclose to Victoria Police information that is subject to legal professional privilege
- it would be ethically repugnant for:
 - a human source who was a lawyer to provide Victoria Police confidential information that had been obtained from a client in the course of providing legal advice related to criminal charges to assist Victoria Police in securing a conviction
 - a human source who was a lawyer to critically review a police brief of evidence to support criminal charges against their client for the forensic benefit of Victoria Police
 - Victoria Police to receive any information from a human source which they were aware was subject to LPP.

4450. Also on 6 June 2012 Messrs McRae, Ryan, Gleeson and Mr Stephen Lee (Assistant Victorian Government Solicitor for the Litigation and Dispute Resolution Branch) met to discuss the VGSO's advice.

6 – 19 June 2012 —McRae and Ashton Brief Lay regarding 'Out of Scope' Issues; Gleeson Raises Further Apparent Problems and Suggests Next Steps

4451. By 6 June 2012, Messrs McRae and Ashton were briefing Mr Lay about the issues that were being raised.⁵⁵⁸²

4452. On 13 June 2012, Mr Gleeson reported to Mr McRae further evidence in support of his concerns that the Petra Taskforce Management Committee had knowledge of how Ms Gobbo had been used.

4453. Mr Gleeson also spoke with Mr McRae on this date about his obligations under the Police Regulation Act to report such matters.⁵⁵⁸³

4454. On 19 June 2012, Mr Gleeson spoke again about the Biggin memo and SDU SWOT analysis in a briefing to Messrs McRae and Pope. He discussed the possibility of referring his concerns to both the OPI and the

⁵⁵⁸¹ Exhibit RC1115 VGSO Advice, Letter from David Ryan to Stephen Gleeson, 6 June 2012, VPL.0005.0014.0002.

⁵⁵⁸² Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 4 [21], VPL.0014.0119.0001 @.0004.

⁵⁵⁸³ Exhibit RC1117 Superintendent Stephen Gleeson diary, 13 June 2012, 40, VPL.0099.0021.0039 @.0078.

Victorian Ombudsman because of the level of seniority of the officers involved.⁵⁵⁸⁴

4455. On 21 June 2012, Mr Gleeson then told Mr Lay that he would be producing a separate report addressing matters which may require further investigation by the OPI because of the seniority of some members concerned and the nature of the issues involved.⁵⁵⁸⁵

22 June 2012 — Gleeson’s Report Completed; Significant Justice Concerns Identified and Petra Steering Committee Questioned

4456. On 22 June 2012, Mr Gleeson prepared a report on issues which had arisen in the course of his work on the Comrie Review but were outside the scope of the terms of reference of that review.⁵⁵⁸⁶

4457. The first of these issues was the Biggin memo and the SDU SWOT analysis which had been delivered to Mr Overland (as chair of the Petra Steering Committee) on 5 January 2009.⁵⁵⁸⁷ Mr Gleeson noted that it was of concern that no minutes of the subsequent meeting were provided with these documents, and there was nothing to indicate who was present at the meeting or whether the memo or SWOT analysis had been circulated, considered or discussed.

4458. The report also outlined these other issues of significance that fell outside of the Terms of Reference:⁵⁵⁸⁸

- the manner in which Ms Gobbo was used as a human source to inform on clients, provide information about defence tactics, provide commentary on shortcomings in prosecution briefs and witness statements and to provide advice on how to best approach interviewing clients when arrested
- the fact that the full electronic Interpose file for Ms Gobbo included numerous examples of her providing information to police handlers about her criminal clients and disregarding LPP
- the concern that Ms Gobbo’s conduct may have compromised rights to a fair trial
- the fact that there was no recorded active discouragement on file from the police handlers to Ms Gobbo to desist with furnishing information about her clients. As a result of this the handlers were vulnerable to perceptions that they may have been inducing such conduct. These

⁵⁵⁸⁴ Exhibit RC1119 Superintendent Stephen Gleeson diary, 19 June 2012, 42, VPL.0099.0021.0039, @.0080.

⁵⁵⁸⁵ Exhibit RC1120 Superintendent Stephen Gleeson diary, 21 June 2012, 43, VPL.0099.0021.0039 @.0081; Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 14 – 15 [61], VPL.0014.0084.0001 @.0014 - .0015.

⁵⁵⁸⁶ Exhibit RC0897 Letter from Stephen Gleeson to Jeffrey (Jeff) Pope, 22 June 2012, 5 – 8, VPL.0100.0105.0001 @.0005 - .0008.

⁵⁵⁸⁷ Exhibit RC0518 Covert Support Division briefing note with audit trail, including SWOT analysis, VPL.0002.0001.1608.

⁵⁵⁸⁸ Exhibit RC0897 Letter from Stephen Gleeson to Jeffrey (Jeff) Pope, 22 June 2012, 5, VPL.0100.0105.0001 @.0005.

perceptions were heightened when handlers may have passed on such information for use

- the fact that consideration of the examples of Ms Gobbo's conduct, in conjunction with the threats to Ms Gobbo if she were to transition from a source to a witness, could suggest that Ms Gobbo and police involved had undermined the justice system.
- concerns about an allegation by Ms Gobbo that senior police had accepted hospitality at a corporate event at the MCG from a media outlet. Ms Gobbo had also accepted an invitation to attend this event. She alleged that she had a conversation with a senior officer who was then at the ESD. The two of them discussed a particular police investigation in the presence of a crime reporter from The Age. Mr Gleeson said this had not been the subject of any referral or investigation.

4459. It was emphasised that assessment of all necessary records in consultation with the DPP was outside the Terms of Reference.

4460. The report also noted Mr Gleeson's statutory obligations to report potential misconduct to the OPI.

July 2012 –Lay Briefs the OPI

4461. Mr Lay told the Commission that he received a copy of Mr Gleeson's letter on 12 July 2012⁵⁵⁸⁹ and met with Mr Pope to discuss it on 17 July 2012, when they decided to brief the OPI as soon as possible.⁵⁵⁹⁰

4462. On 20 July 2012, Mr Lay met with then Acting Director of the OPI, Mr Ron Bonighton to brief him on the concerns raised by Mr Gleeson.⁵⁵⁹¹

4463. On 25 July 2012, Mr Lay notified Mr Bonighton in writing about the matter and enclosed a copy of Mr Gleeson's report.⁵⁵⁹²

4464. On 6 August 2012, Mr Lay received a letter from Mr Comrie enclosing his report about the use of Ms Gobbo as a source.⁵⁵⁹³

4465. On the same day, Mr Lay provided a copy of the Comrie Review to Mr Bonighton and forwarded the letter and report to Mr Ashton with a request

⁵⁵⁸⁹ Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 5 [22], VPL.0014.0119.0001 @.0005.

⁵⁵⁹⁰ Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 5 [23], VPL.0014.0119.0001 @.0005.

⁵⁵⁹¹ Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 5 [24], VPL.0014.0119.0001 @.0005.

⁵⁵⁹² Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 5 [25], VPL.0014.0119.0001 @.0005; Exhibit RC1174 Letter from Chief Commissioner Kenneth Lay to Mr Ron Bonighton, 25 July 2012, VPL.0005.0258.0001 @.0002.

⁵⁵⁹³ Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 6 [28], VPL.0014.0119.0001 @.0006; Exhibit RC1372 Letter from Mr Neil Comrie to Chief Commissioner Kenneth Lay, VPL.0100.0001.0606 @.0607.

that he review the recommendations and advise on how they would be implemented.⁵⁵⁹⁴

30 July 2012 - Conclusions of the Comrie Review

Potential for Compromised Trials Identified; Review of Gobbo File Recommended

4466. On 30 July 2012, Mr Comrie finalised his review.⁵⁵⁹⁵ Mr Comrie made 27 recommendations, which called for, among other things:

- a robust and ongoing risk assessment process for 'high risk' human sources
- consistent and thorough policies and procedures
- improved supervision and monitoring
- the requirement to obtain legal advice where the human source is occupationally bound by legal and ethical duties
- the development of a management plan for human sources who are transitioned to witnesses.

4467. The Comrie Review also endorsed the findings and 26 recommendations of the 2010 internal audit of human source management practices.

4468. The Comrie Review noted that:

Entries contained in the 3838 ICRs, taken at face value, indicate that on many occasions 3838, in providing information to police handlers about 3838's clients, has disregarded legal professional privilege. Furthermore, in some instances, it is open to interpret that such conduct may have potentially interfered with the right to a fair trial for those concerned. In the absence of any apparent active discouragement from the police handlers for 3838 to desist with furnishing information on such matters, the handlers remain vulnerable to perceptions that they may have actually been inducing or encouraging the provision of such information. These concerns are heightened in instances where handlers have passed on such information to other police case managers, presumably so that they may make use of it.

4469. Recommendation 20 of the Comrie Review stated:

That an appropriately qualified Victoria Police analyst review the entire 3838 file to ensure that:

(a) All issues of significance have been identified

(b) Appropriate actions/notifications/referrals are made concerning such issues

⁵⁵⁹⁴ Exhibit RC1171 Statement of Mr Kenneth Lay, 15 December 2019, 6 [29], VPL.0014.0119.0001 @.0006.

⁵⁵⁹⁵ Exhibit RC0510 Comrie Review as available on Supreme Court website, VPL.0005.0001.0001.

(c) The file reflects reasoning and approval for all recommended action/inaction.

4470. In response to Recommendation 20 of the Comrie Review, Victoria Police commenced an investigation called Operation Loricated, which over 18 months compiled in one folder electronic versions of all available source documents relating to Ms Gobbo's utilisation and created a web based program titled Operation Loricated Web-Based Solution.⁵⁵⁹⁶

31 August 2012 – Gleeson and McRae Brief the OPI

4471. Messrs Gleeson and McRae formed the view that some of the matters raised during the Comrie Review needed to be reported to the OPI.⁵⁵⁹⁷
4472. On 31 August 2012, Messrs Gleeson and McRae met with Ms Vanessa Twigg of the OPI to brief her regarding legal conflict issues. Mr Gleeson gave an overview of the Comrie Review and the out-of-scope issues covered in his letter to Mr Pope.⁵⁵⁹⁸ Mr Gleeson said that he mentioned that Mr Tony Mokbel's extradition process was one matter that may be affected and that Ms Gobbo may have reviewed and critiqued briefs of evidence relating to her clients.⁵⁵⁹⁹
4473. Messrs Gleeson and McRae provided the OPI with copies of the VGSO's legal advice and Interpose information in relation to the conflict issues that Mr Gleeson had identified.⁵⁶⁰⁰

2012 – 2013 – Disclosure, Closure of SDU, and Operation Loricated

1 June 2012 – Messrs McRae and Fryer meet with DPP regarding Gobbo's Correspondence

DPP Informed Gobbo a Source, But Details Not Provided

4474. On 1 June 2012, Mr McRae and then Acting Assistant Commissioner Doug Fryer met with Mr Champion and Bruce Gardner, then Manager of the Policy and Advice Directorate at the OPP, regarding Ms Gobbo's correspondence, including Ms Gobbo's reference to 'hundreds of hours of covert recordings'.⁵⁶⁰¹
4475. Messrs McRae and Fryer referred to Ms Gobbo as 'witness F'.⁵⁶⁰² Mr McRae gave evidence to the Commission that at this meeting, Mr Fryer told Mr

⁵⁵⁹⁶ *AB & EF v CD* [2017] VSC 350, [36].

⁵⁵⁹⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12914, TRN.2020.02.03.01; Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 35 [6.24], VPL.0014.0089.0003 @.0037.

⁵⁵⁹⁸ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 15 [65], VPL.0014.0084.0001 @.0015.

⁵⁵⁹⁹ Exhibit RC1407 Statement of Superintendent Stephen Gleeson, 6 November 2019, 15 [65], VPL.0014.0084.0001 @.0015.

⁵⁶⁰⁰ Transcript of Mr Findlay McRae, 3 February 2020, 12914, TRN.2020.02.03.01.

⁵⁶⁰¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 32 [6.13] – 33 [6.14], VPL.0014.0089.0003 @.0034 - .0035.

⁵⁶⁰² Transcript of Mr Findlay McRae, 3 February 2020, 12886, TRN.2020.02.03.01.

Champion that Ms Gobbo 'had been a source for a long time' and discussed the safety concerns for Ms Gobbo.⁵⁶⁰³

4476. Neither Mr McRae nor Mr Fryer spoke to Mr Champion at this stage about the Maguire advice or the issues arising in the Comrie Review, including the 'out of scope' issues being identified by Mr Gleeson.⁵⁶⁰⁴
4477. Mr McRae gave evidence to the Commission that there was some discussion regarding a conflict of interest issue that related to a trial of Mr Cvetanovski and which concerned a witness against him (Mr Cooper).⁵⁶⁰⁵ Mr Champion had been the Crown prosecutor in that trial.
4478. Mr McRae did not inform Mr Champion that both Mr Cvetanovski and the witness had also been subjects of Ms Gobbo's informing.
4479. Mr Gardner made handwritten notes of the meeting, including:⁵⁶⁰⁶
- *'ethical question re F and Cooper'*
 - *'Cvetanovski transcript re F etc'*
 - *'no current prosecution files affected by F at present'*
 - *'need to discuss F's ethical issues re eg she is witness at Inquest – wants to answer questions'*
 - *'should process her via Bar ethics processes eg. Person 5 etc'*
4480. Mr McRae also made a file note of the meeting, which included a reference to 'human rights'. Mr McRae explained in his statement that this was a reference to how he was thinking about the issue at the time – on the one hand, he was concerned about Ms Gobbo's safety and right to life and on the other hand, he was concerned about the right to a fair trial.⁵⁶⁰⁷
4481. However, in evidence before the Commission, it became apparent that the reference to 'human rights' concerned a separate issue and was not part of a discussion about the conduct of Ms Gobbo or its potential effect upon trials.⁵⁶⁰⁸

August 2012 – Police Discussions regarding Duty to Disclose Mokbel Issues to DPP

McRae, Gleeson, Pope and Ashton Discuss whether Further Mokbel Disclosure to be Made to DPP

4482. On 22 August 2012, Mr McRae met with Mr Gleeson and then Mr Pope and they discussed whether Victoria Police was required to make further

⁵⁶⁰³ Transcript of Mr Findlay McRae, 3 February 2020, 12884, TRN.2020.02.03.01.

⁵⁶⁰⁴ Exhibit RC0510 Comrie Review as available on Supreme Court website, VPL.0005.0001.0001.

⁵⁶⁰⁵ Transcript of Mr Findlay McRae, 3 February 2020, 12884, TRN.2020.02.03.01.

⁵⁶⁰⁶ Exhibit RC1113 Meeting notes of Mr Bruce Gardner, 1 June 2012, 116, RCMPI.0104.0001.0001 @.0116.

⁵⁶⁰⁷ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 33 [6.17], VPL.0014.0089.0003 @.0035.

⁵⁶⁰⁸ Transcript of Mr Findlay McRae, 3 February 2020, 12888 – 12889, TRN.2020.02.03.01.

disclosure to the DPP regarding Mr Tony Mokbel.⁵⁶⁰⁹ At this meeting, it was agreed that Messrs Pope and McRae would discuss the issue with Mr Ashton.

4483. On 23 August 2012, Mr McRae had a discussion with Messrs Ashton and Pope regarding further disclosure to the DPP as a result of Ms Gobbo's activities.⁵⁶¹⁰ Mr McRae took a file note of the meeting which contained the following points:

- *Further disclosure to DPP regarding activities of witness F*
- *Agreed that DPP should be informed that VicPol is examining the information passed to police regarding potentially her own clients*
- *Comrie Review noted*
- *Noted that DPP aware of and came that evidence was led in regard to the activities of witness F*
- *OPP questioned the relevant to that trial*
- *Impact of F activities not known*
- *Previous disclosure to Cmth OPP re Dale and Maguire advice*

4 September 2012 – Next Meeting with the DPP

McRae tells DPP There 'May be a Suggestion' Gobbo Provided Information regarding those She Represented, including Mokbel

4484. Following the discussion on 23 August 2012, the next meeting with Mr Champion occurred on 4 September 2012. Messrs Champion, Gardner and McRae met at the office of the OPP to further discuss Ms Gobbo.⁵⁶¹¹

4485. Mr Gardner made handwritten notes during the meeting, including:⁵⁶¹²

Fin advised us today that upon a review of internal Vicpol intelligence material/HSMU material etc, there may be a suggestion that NG was providing information to Vicpol about persons she then professionally represented, including T Mokbel.' 'Possibly suggested that NG provided information to Vicpol which enabled Vicpol to detect and then arrest TM in Greece, which then led to his extradition. Query whether NG in fact acted for TM. Query whether NG provided data to Vicpol re her own client (in breach of LPP).' 'Issue – does OPP have duty of disclosure now, to TM, re NG "information"??

⁵⁶⁰⁹ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 34 - 35 [6.22], VPL.0014.0089.0003 @.0036 - .0037.

⁵⁶¹⁰ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 35 [6.23], VPL.0014.0089.0003 @.0037; Exhibit RC0889 File note of Mr Findlay McRae of meeting with Mr Jeffrey (Jeff) Pope and Mr Graham Ashton, 23 August 2012, VPL.0005.0003.2800.

⁵⁶¹¹ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 5 [27] RCMPI.0104.0001.0001 @.0005.

⁵⁶¹² Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 126, RCMPI.0104.0001.0001 @.0126.

4486. Mr Gardner recalled that it was Mr Champion who raised the issue of disclosure in the meeting.⁵⁶¹³ Mr Gardner's file note also recorded 'note nature of duty, per Farquharson/Jama etc'.⁵⁶¹⁴
4487. Mr Gardner recalled that his reference to 'Farquharson/Jama' was a reference to the case of *R v Farquharson*⁵⁶¹⁵ and also to the report of the Hon Frank Vincent into the wrongful conviction of Mr Farah Jama.⁵⁶¹⁶ Both of these cases examine the question of adequacy of disclosure, and the consequences of failure to make appropriate disclosure to the fair trial of an accused.
4488. Mr Gardner recalled that there was a discussion as to what the duty of disclosure entailed.⁵⁶¹⁷ Mr Gardner's file note also stated 'Fin could not tell us more at present. Agreed that at present he has nothing concrete to tell us ... JC agreed to consider the issue further, including discussing it with counsel briefed for the appeal (PK or TG?) ... Fin may provide us with more at a later stage'.⁵⁶¹⁸
4489. Mr McRae recalled that he asked Mr Champion about Mr Cvetanovski's matter because Mr McRae knew that a conflict had been raised in the matter, which he was concerned about.⁵⁶¹⁹
4490. Mr McRae also recalled that he and Mr Gleeson updated Messrs Champion and Gardner about the Comrie Review and noted that it had uncovered evidence of potential conflicts of interest and that it had been alleged that potentially privileged material had been used in relation to Mr Tony Mokbel's extradition, which had been identified in source holdings.⁵⁶²⁰
4491. Mr McRae recalled that he and Mr Gleeson advised Mr Champion that Victoria Police were preparing to review intelligence holdings to determine whether disclosure was required, but that it would take some time.⁵⁶²¹
4492. Mr McRae said that he recalled that Mr Champion said he would wait for the outcome of the review and that he needed more certainty that Ms Gobbo's conduct may have impacted on prosecutions.⁵⁶²²
4493. In the letter provided to the Commission, Ms Judd noted that the documents held by the OPP do not evidence any further substantive information from

⁵⁶¹³ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 126, RCMPI.0104.0001.0001 @.0126.

⁵⁶¹⁴ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 126, RCMPI.0104.0001.0001 @.0126.

⁵⁶¹⁵ (2009) 26 VR 410.

⁵⁶¹⁶ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 5 [32] RCMPI.0104.0001.0001 @.0005.

⁵⁶¹⁷ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 6 [33] RCMPI.0104.0001.0001 @.0006.

⁵⁶¹⁸ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 126, RCMPI.0104.0001.0001 @.0126.

⁵⁶¹⁹ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 36 [6.28], VPL.0014.0089.0003 @.0038.

⁵⁶²⁰ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 36 [6.28], VPL.0014.0089.0003 @.0038.

⁵⁶²¹ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 37 [6.29], VPL.0014.0089.0003 @.0039.

⁵⁶²² Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 37 [6.30], VPL.0014.0089.0003 @.0039.

Victoria Police about Ms Gobbo's possible activities as an informer being provided until early 2014.⁵⁶²³

4494. It appears to be the case that aside from a discussion on 28 August 2013, Victoria Police did not return to the OPP to raise any further concerns arising from its examination of matters concerning the management of Ms Gobbo as a human source until nearly more than 18 months later, on 1 April 2014, after the publication of the 'Lawyer X' newspaper articles in the Herald Sun.

17 October 2012 – DPP Meeting regarding Mr Tony Mokbel

Champion, Gardner and Gyorffy Discuss Obligation to Make Disclosures to Defence regarding Mokbel's High Court Appeal

4495. On 17 October 2012, Messrs Champion and Gardner met with Mr Tom Gyorffy SC who was senior counsel appearing on behalf of the DPP in Mr Tony Mokbel's appeal proceedings in the High Court.⁵⁶²⁴ Mr Gardner's file note included the following points:⁵⁶²⁵

- *All agree – even if true, could not affect appeal issues*
- *Nor is it clear or certain enough to require disclosure*
- *+may not involve any breach of LPP anyway*

4496. Mr Gardner recalled that the reference to 'appeal issues' was a reference to the technical arguments which were being raised in relation to the validity of Mr Tony Mokbel's extradition from Greece.⁵⁶²⁶ Mr Gardner recalled that the reference to disclosure was a reference to the lack of clarity and specificity in the information that Victoria Police had provided to the DPP about what Ms Gobbo may have said about Mr Tony Mokbel's matter.⁵⁶²⁷

4497. Mr Gardner recalled that the reference to 'LPP' was a reference to the fact that, on the information that Victoria Police had provided to the DPP, it was not clear that Ms Gobbo had provided any information to Victoria Police that was subject to the legal professional privilege of any of her clients.⁵⁶²⁸

4498. Ms Judd stated that at that time, in late 2012, the only information that Victoria Police had provided to the DPP was the information arising out of the various meetings that have been summarised above.⁵⁶²⁹

⁵⁶²³ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 6 [37], RCMP.I.0104.0001.0001 @.0006.

⁵⁶²⁴ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 6 [38], RCMP.I.0104.0001.0001 @.0006.

⁵⁶²⁵ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 128, RCMP.I.0104.0001.0001 @.0128.

⁵⁶²⁶ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 6 [39], RCMP.I.0104.0001.0001 @.0006.

⁵⁶²⁷ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 6 [41], RCMP.I.0104.0001.0001 @.0006.

⁵⁶²⁸ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 7 [43], RCMP.I.0104.0001.0001 @.0007.

⁵⁶²⁹ Exhibit RC1096 Director of Public Prosecutions' Response to Commission's enquires, 8 November 2019 [41], RCMP.I.0104.0001.0001_0126.

28 August 2013 – McRae Meeting with the DPP

4499. On 28 August 2013, Mr McRae attended a meeting with the Mr Champion, Mr Gardner, Mr Ferdinands and Ms Anscombe of the OPP.⁵⁶³⁰ They discussed several issues regarding bail appeals and appeals to the County Court. In Mr McRae's typed file note, he referred to:⁵⁶³¹

Dale – comments regarding N Gobbo passing own client information to VicPol. Implications- risk assessment.

March 2012 – Beginning of Covert Services Division Review

4500. In March 2012, Mr Pope was involved in drafting the terms of reference for the Covert Services Division Review.⁵⁶³²
4501. On 20 April 2012, Mr Pope received an email from Mr Sheridan advising that as part of the Covert Services Division Review, Mr O'Connor had suggested that the SDU could come under or align with the HSMU in a new structure.⁵⁶³³

June 2012 – Sheridan Advocates for Closure of SDU

4502. Mr Sheridan had taken over from Mr Biggin as Detective Superintendent in charge of the CSD which comprised the SDU, the Undercover Unit and the Special Projects Unit. Mr Pope was his superior. Mr Sheridan supervised Mr O'Connor as the Inspector in charge of the SDU.
4503. On 24 June 2012, Mr Sheridan sent an email to Mr Pope advising him that he was in favour of winding up the SDU as it presented an opportunity to re-design an improved work group which would better manage the handling of high risk human sources.⁵⁶³⁴ Mr Sheridan noted:

What really tips the scales for me is that the handling of Witness F (Ms Gobbo) has been undertaken and managed by the best trained human source personnel within the Force. These individuals have travelled the world and been training and educated by the best and yet they still lost their way! In short our best people in this area must be able to ensure that we do not make these mistakes in future.

4504. Mr Sheridan gave evidence to the Commission that Mr Pope had advised him of some of the points that the Comrie Review had uncovered and that is what really tipped the scale.⁵⁶³⁵ Mr Sheridan explained that during his time

⁵⁶³⁰ Exhibit RC1067 Statement of Findlay McRae, 13 November 2019, 38 [7.7], VPL.0014.0089.0003 @.0040.

⁵⁶³¹ Exhibit RC1815 File note of Mr Findlay (Fin) McCrae of meeting with DPP and OPP (typed), 28 August 2013, VPL.0005.0003.2556.

⁵⁶³² Exhibit RC1306 Statement of Jeffrey (Jeff) Pope, 21 January 2020, 18 [62], COM.0010.0001.0001 @.0018.

⁵⁶³³ Exhibit RC1306 Statement of Jeffrey (Jeff) Pope, 21 January 2020, 19 [62], COM.0010.0001.0001 @.0019.

⁵⁶³⁴ Exhibit RC0444 Email from Paul Sheridan to Jeffrey (Jeff) Pope, 24 June 2012, VPL.6027.0032.4202.

⁵⁶³⁵ Transcript of Detective Superintendent Paul Sheridan, 5 December 2019, 10592, TRN.2019.12.05.01.

as manager of the division, Mr Sheridan noted that there was resistance to managerial intervention and strong resistance to intrusive supervision.⁵⁶³⁶

4505. On 5 July 2012, Mr Pope received a report from Mr Sheridan regarding the SDU, which included:⁵⁶³⁷
- the SDU were resistant to managerial intervention
 - the practices around the Acknowledgment of Responsibility (AOR) for human sources had diminished, with only very few sources having signed the document
 - a culture of peer selection had developed, with too much control over selection in the hands of a few
 - controllers were too involved in source strategy.
4506. In August 2012, Mr Pope received an intelligence appraisal of the CSD and the Surveillance Services Division (SSD) which was to inform a critical component of the terms of reference of the CSD Review. The appraisal highlighted shortcomings in the gathering, use and sharing of intelligence within the Division, and underutilisation of intelligence and relevant systems.⁵⁶³⁸ The appraisal outlined a lack of intelligence capability in much of the CSD which was not making the most of its intelligence environment.⁵⁶³⁹
4507. On 21 August 2012, Mr Pope received an email from Mr Sheridan containing a confidential transition plan if Victoria Police were to close the SDU as a consequence of the review.⁵⁶⁴⁰

August and September 2012 – Further Discussions about Closure of SDU

Pope, Fryer, and Sheridan Seek to Close SDU

4508. On 24 August 2012, Mr Pope sent an email to Mr Lay setting out the reasons why in his view, the SDU should be closed.⁵⁶⁴¹ The reasons related to the culture in the SDU and, following the Comrie Review, the need to uphold the 'reputation of Victoria Police and the confidence of the community and the judiciary'.⁵⁶⁴²
4509. On 12 September 2012, then Commander Doug Fryer prepared a briefing note about the process and timing for closing the SDU.⁵⁶⁴³ At that stage, it

⁵⁶³⁶ Transcript of Detective Superintendent Paul Sheridan, 5 December 2019, 10592, TRN.2019.12.05.01.

⁵⁶³⁷ Exhibit RC1319 Email from Paul Sheridan to Jeffrey (Jeff) Pope, 5 July 2012, VPL.6027.0018.8618.

⁵⁶³⁸ Exhibit RC1787 Intelligence Appraisal of the Covert Services and Surveillance Services Divisions Intelligence and Covert Support Department, August 2012, VPL.6027.0032.6136.

⁵⁶³⁹ Exhibit RC1787 Intelligence Appraisal of the Covert Services and Surveillance Services Divisions Intelligence and Covert Support Department, August 2012, VPL.6027.0032.6136.

⁵⁶⁴⁰ Exhibit RC1167 Email from Paul Sheridan to Jeffrey (Jeff) Pope, 21 August 2012, VPL.6027.0019.7142.

⁵⁶⁴¹ Exhibit RC847 Email from Jeffrey (Jeff) Pope to Kenneth Lay, 29 August 2012, GLA.0003.0006.0119.

⁵⁶⁴² Exhibit RC1306 Further Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 30 [111], COM.0010.0001.0001 @.0030.

⁵⁶⁴³ Exhibit RC0360 Briefing note from Mr Douglas (Doug) Fryer to Mr Jeffrey (Jeff) Pope, 12 September 2012, VPL.0100.0098.0054.

was contemplated that the SDU would be closed on 18 September 2012.⁵⁶⁴⁴ Ultimately, the closure was delayed because of industrial relations issues that needed to be resolved with assistance from Victoria Police's human resources department.⁵⁶⁴⁵

4510. On 17 September 2012, Mr Fryer emailed Victoria Police Industrial Relations officer, Liz Cheligoy, copying in Messrs Pope and Sheridan seeking further industrial relations advice on the intended closure of the SDU.⁵⁶⁴⁶

It is our view (Paul, Jeff and I) that based on the Comrie enquiry and a continued course of conduct by the current staff that highlights continued unacceptable organisational risk that the work group (SDU) should be closed asap.

4511. In September 2012, Mr Sheridan prepared a document outlining a number of circumstances where SDU personnel had strongly resisted managerial intervention.⁵⁶⁴⁷

SDU staff consistently fail to accept that management act as governance across the deployment of high risk human source to ensure that the community, the organisation, the members and the human source are not placed at an unacceptable level of risk. A culture of risk taking has developed based on ego rather than risk versus reward.

4512. On 22 October 2012, Mr Fryer emailed Ms Cheligoy, copying in Messrs Sheridan and Pope, notifying her that they were still keen to progress the closure of the SDU and that there was enough in the Comrie Review alone to close the unit.⁵⁶⁴⁸ In his email, Mr Fryer attached a copy of the SDU management document prepared by Mr Sheridan in September 2012.

Final Report for CSD Review

Closure of SDU is Signed Off by Mr Lay; Victoria Police Command Advised

4513. The final report for the CSD Review was provided by Mr Sheridan to Messrs Pope, Fryer and Ashton for formal endorsement on 11 December 2012.⁵⁶⁴⁹
4514. On 13 December 2012, Messrs Fryer, Pope and Sheridan met with Mr Lay, and at this meeting Mr Lay endorsed the proposal to close the SDU.⁵⁶⁵⁰

⁵⁶⁴⁴ Exhibit RC1255 Statement of Mr Douglas (Doug) Fryer, 7 October 2019, 18 [99], VPL.0014.0073.0001 @.0018.

⁵⁶⁴⁵ Exhibit RC1255 Statement of Mr Douglas (Doug) Fryer, 7 October 2019, 18 [100], VPL.0014.0073.0001 @.0018.

⁵⁶⁴⁶ Exhibit RC1679 Email from Douglas (Doug) Fryer to Liz Cheligoy, copying Jeffrey (Jeff) Pope and Paul Sheridan, 17 September 2012, VPL.6027.0035.6723.

⁵⁶⁴⁷ Exhibit RC0361 Victoria Police, SDU Management document prepared by Mr Detective Superintendent Paul Sheridan, September 2012, VPL.6027.0035.5319.

⁵⁶⁴⁸ Exhibit RC0361 Email from Douglas (Doug) Fryer to Liz Cheligoy, with two attachments, 22 October 2012, VPL.0100.0132.0134.

⁵⁶⁴⁹ Exhibit RC0361 Covert Services Review, Recommendations and Findings, 11 December 2012, VPL.0100.0098.0049.

⁵⁶⁵⁰ Exhibit RC1255 Statement of Mr Douglas (Doug) Fryer, 7 October 2019, 19 [103],

VPL.0014.0073.0001 @.0103; Exhibit RC1559 Mr Douglas (Doug) Fryer diary, 13 December 2012, 7, VPL.0005.0161.0118 @.0124.

4515. On 6 February 2013, Mr Pope provided the final report into the CSD Review to Mr Ashton, asking if he could brief Executive Command on the following Monday.⁵⁶⁵¹
4516. On 11 February 2013, Mr Pope advised Mr O'Connor, then Superintendent Stephen Waddell and then Superintendent Gavan Segrave that the SDU would be closed.⁵⁶⁵²
4517. On 12 February 2013, Mr Pope sent an email to Victoria Police Command advising them of the high level outcomes of the CSD Review, including the closure of the SDU.⁵⁶⁵³

Closing the Source Development Unit with all staff... to transition out of the unit over the next 2 weeks. It is a finding of the review that a better work practice to mitigate the high risk created by a centralised source management team is to create a more decentralised model... a plan is being executed over the coming days to transition the existing SDU staff into other positions for a period of 3-6 months...

12 February 2013 – SDU Informed of Closure

4518. On 12 February 2013, Messrs Sheridan and Fryer attended the SDU office and Mr Fryer informed the SDU staff that the SDU would be closed within two weeks as a result of the CSD Review. Sources would be transitioned to other handlers.⁵⁶⁵⁴
4519. Mr O'Connor was also present at this meeting and stated that Messrs Fryer and Sheridan informed the SDU members that they had been in the covert environment too long and that there was too great a risk if the SDU were to continue to operate.⁵⁶⁵⁵ Mr Fryer recorded in his diary that there were no questions from SDU members.⁵⁶⁵⁶
4520. Mr O'Connor was put in charge of winding up the SDU. Mr O'Connor met with SDU members to discuss closing the unit and had one on one discussions with them about where they wanted to be reassigned.⁵⁶⁵⁷
4521. From 1 April 2013, Mr O'Connor began a role in the UCU but continued to manage administration related to closing the SDU for several weeks.⁵⁶⁵⁸

⁵⁶⁵¹ Exhibit RC1306 Further Statement of Jeffrey (Jeff) Pope, 21 January 2020, 22 [80], COM.0010.0001.0001 @.0022.

⁵⁶⁵² Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 23 [130], VPL.0014.0077.0001 @.0023.

⁵⁶⁵³ Exhibit RC0484 Email from Jeffrey (Jeff) Pope to Victoria Police Command, 12 February 2013, VPL.6027.0037.9268.

⁵⁶⁵⁴ Exhibit RC1255 Statement of Mr Douglas (Doug) Fryer, 7 October 2019, 19 [105], VPL.0014.0073.0001 @.0019.

⁵⁶⁵⁵ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 23 [133], VPL.0014.0077.0001 @.0023.

⁵⁶⁵⁶ Exhibit RC1559 Mr Douglas (Doug) Fryer diary, 12 February 2013, 10, VPL.0005.0161.0118 @.0127.

⁵⁶⁵⁷ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 24 [135], VPL.0014.0077.0001 @.0024.

⁵⁶⁵⁸ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 24 [135], VPL.0014.0077.0001 @.0024.

4522. At the time of closing the SDU, there were [REDACTED] active sources, [REDACTED] of which were transitioned to other qualified source handlers who were not attached to the SDU and [REDACTED] were deactivated.⁵⁶⁵⁹

Reasons for the Closure of the SDU

4523. Counsel for the SDU members contended that the SDU were 'sacked' to protect police command from taking responsibility for the mismanagement of Ms Gobbo.⁵⁶⁶⁰ The evidence demonstrates that none were 'sacked', rather, their unit was closed and they were assigned to other roles.

Evidence of Mr Sandy White

4524. Sandy White stated that he considered that senior management, including Messrs O'Connor, Sheridan, Fryer and Pope determined that by closing the SDU, terminating their operations and reviewing informer management policy, it would be possible to rebut any future criticism by stating that the staff at the unit were rogue or not properly controlled.⁵⁶⁶¹ Mr Sandy White also stated that in his view, Victoria Police would blame the failings of the SDU on previous management and shut down the unit as an example of pre-emptive action after identifying a terrible problem and move on.⁵⁶⁶²

4525. Mr Sandy White was also of the view that the SDU was closed as a cost saving measure.⁵⁶⁶³

Evidence of Mr O'Connor

4526. In his statement, Mr O'Connor stated that he understood that the SDU was closed because the SDU members had become desensitised to taking risks after spending too long in a high-risk covert area.⁵⁶⁶⁴

4527. Mr O'Connor stated that the culture of the unit came to resist attempts by management to intervene to control those risks to Victoria Police and the community.⁵⁶⁶⁵ Mr O'Connor considered that the SDU members tried to circumvent management decisions.⁵⁶⁶⁶

4528. As an Inspector, Mr O'Connor intrusively supervised the controllers and handlers in relation to the management of the high risk sources.⁵⁶⁶⁷ He

⁵⁶⁵⁹ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 24 [136], VPL.0014.0077.0001 @.0024.

⁵⁶⁶⁰ Transcript of Chief Commissioner Graham Ashton, 11 December 2019, 10982 – 10983, TRN.2019.12.11.01.

⁵⁶⁶¹ Exhibit RC0275d Statement of Mr Sandy White, 22 May 2019, 37 [165], COM.0019.0002.0001 @.0038.

⁵⁶⁶² Exhibit RC0275d Statement of Mr Sandy White, 22 May 2019, 37 [165], COM.0019.0002.0001 @.0038.

⁵⁶⁶³ Exhibit RC0275d Statement of Mr Sandy White, 22 May 2019, 38 [170], COM.0019.0002.0001 @.0039.

⁵⁶⁶⁴ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 24 [137], VPL.0014.0077.0001 @.0024.

⁵⁶⁶⁵ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 24 [137], VPL.0014.0077.0001 @.0024.

⁵⁶⁶⁶ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [142], VPL.0014.0077.0001 @.0025.

⁵⁶⁶⁷ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [140], VPL.0014.0077.0001 @.0025.

identified that Victoria Police were at risk because SDU members were not following policies, procedures or applicable laws in pursuing valuable intelligence.⁵⁶⁶⁸ He identified that the community were also at risk because sources may have been given leeway to commit crimes and that the sources themselves were at risk because SDU members continued to use valuable sources for such a period where doing so might expose the source's co-operation or identity.⁵⁶⁶⁹

4529. Mr O'Connor noted that there were also risks to the SDU members themselves with respect to their health and wellbeing because contact from sources was often irregular and unpredictable, the work was high pressure, the SDU members were not praised outside of the covert context because of the risk of exposing sources and because sources were often manipulative career criminals.⁵⁶⁷⁰
4530. Mr O'Connor gave evidence to the Commission that in 2012 he prepared a document called 'SDU – Health and Wellbeing – CSD Review' and provided it to Mr Sheridan.⁵⁶⁷¹
4531. Mr O'Connor maintained a list of serious instances where the SDU members took or proposed to take unacceptable risks or resisted attempts to manage risks.⁵⁶⁷² Mr O'Connor stated that he frequently raised these issues with his supervisor, Mr Sheridan and gave him a list in late 2012.⁵⁶⁷³ Mr O'Connor was of the view that a number of the SDU members were not able to appropriately judge what was an unacceptable risk, and the culture of the SDU was to take too many risks in pursuing valuable intelligence.⁵⁶⁷⁴
4532. Mr O'Connor highlighted that the culture of the SDU was such that they did not accept that management's role was to control the level of risk, which stemmed from an attitude amongst the longer serving controllers and handlers that management could not properly assess risks because they had not completed the same training courses on source management.⁵⁶⁷⁵
4533. After many years of working to implement changes to the SDU's processes, including changes to improve the wellbeing of members, Mr O'Connor stated that he was not surprised by the decision to close the SDU.⁵⁶⁷⁶

⁵⁶⁶⁸ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [140], VPL.0014.0077.0001 @.0025.

⁵⁶⁶⁹ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [140], VPL.0014.0077.0001 @.0025.

⁵⁶⁷⁰ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [141], VPL.0014.0077.0001 @.0025.

⁵⁶⁷¹ Transcript of Superintendent John O'Connor, 27 November 2019, 9961 – 9962, TRN.2019.11.27.01; RC0804 SDU Health and Wellbeing, CSD Review undated, 2012, VPL.0005.0171.0008.

⁵⁶⁷² Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [143], VPL.0014.0077.0001 @.0025.

⁵⁶⁷³ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [143], VPL.0014.0077.0001 @.0025.

⁵⁶⁷⁴ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 25 [143], VPL.0014.0077.0001 @.0025.

⁵⁶⁷⁵ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 26 [144], VPL.0014.0077.0001 @.0026.

⁵⁶⁷⁶ Exhibit RC0795 Statement of John O'Connor, 11 October 2019, 28 [157], VPL.0014.0077.0001 @.0028.

Evidence of Mr Pope

4534. In his statement, Mr Pope said that none of the staff were terminated from Victoria Police and that the SDU staff in the unit at the time of the closure were transitioned through a process determined by the Enterprise Agreement into other vacant positions of their choosing.⁵⁶⁷⁷
4535. In his email to Messrs Lay and Ashton, Mr Pope highlighted the following concerns regarding the SDU, some of which were derived from the Comrie Review:⁵⁶⁷⁸
- many of the handlers were ex- [REDACTED] squad members and did not like being managed
 - there were significant egos who were resistant to management
 - the high degree of risk in having people in the covert environment for length periods
 - a number of staff presented with health and wellbeing issues
 - there was a culture of preaching the right source management methodology and doing something completely different
 - there were issues with unethical conduct by the handlers
 - there was a likelihood of disciplinary and potentially criminal charges being laid against SDU staff
 - there had been very poor leadership and a total lack of judgment and governance by the [REDACTED] and Inspector of the SDU at the time.
4536. Mr Pope gave evidence to the Commission that on the basis of the materials he set out in his statement, the closure of the SDU was justified and that there was no material that he had seen since 2013 that caused him to doubt the correctness of his decision.⁵⁶⁷⁹

Evidence of Mr Sheridan

4537. Mr Sheridan gave evidence to the Commission that he considered that there were individual members in the SDU who had personal behavioural issues in terms of not accepting direction easily.⁵⁶⁸⁰ Mr Sheridan also referred to the significant egos that tend to exist in specialist areas such as the SDU.⁵⁶⁸¹
4538. Mr Sheridan referred to the 'complacency culture' that existed within the SDU and was of the view that there was merit in setting maximum time periods in which people could be in positions, particularly in high risk areas such as source management.⁵⁶⁸² Mr Sheridan acknowledged that there was

⁵⁶⁷⁷ Exhibit RC1306 Further Statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 30 [113], COM.0010.0001.0001 @.0030.

⁵⁶⁷⁸ Exhibit RC0847 Email from Jeffrey (Jeff) Pope to Kenneth Lay, copying Graham Ashton, 29 August 2012, GLA.0003.0006.0119.

⁵⁶⁷⁹ Transcript of Mr Jeffrey (Jeff) Pope, 19 February 2020, 14535, TRN.2019.02.19.01.

⁵⁶⁸⁰ Transcript of Superintendent Paul Sheridan, 5 December 2019, 10595, TRN.2019.12.05.01.

⁵⁶⁸¹ Transcript of Superintendent Paul Sheridan, 5 December 2019, 10596, TRN.2019.12.05.01.

⁵⁶⁸² Transcript of Superintendent Paul Sheridan, 5 December 2019, 10596, TRN.2019.12.05.01.

a need to also have members with experience in human source management.⁵⁶⁸³

Evidence of Mr Fryer

4539. Mr Fryer stated that by late October 2012, his view was that a combination of the findings of the Comrie Review and the findings of the CSD Review provided justification for the closure of the SDU.⁵⁶⁸⁴

Conclusion

4540. It is not a part of this Commission's Terms of Reference to examine in any detail the reasons for the closure of the SDU. As suggested in the brief summary set out above, there were several reasons.

4541. It can be said with confidence that that none of its members were 'sacked', in the sense that they lost their employment with Victoria Police, indeed, there was evidence that each of the members who were in the unit at the time that it was closed, retained additional allowances accorded to SDU members for a period of time when they moved to other areas.

4542. If, as Mr Sandy White suggested, senior management, including Messrs O'Connor, Sheridan, Fryer and Pope, hoped that by closing the unit, it would be possible to dampen future criticism of Victoria Police, by blaming the members of the unit, that hope could only be described as faint.

4543. The Commission heard evidence that there were a wide range of factors involved in the decision to close the SDU. Management of Ms Gobbo by the SDU was only one of the issues.⁵⁶⁸⁵ The evidence that the Commission has heard has established that the decision made to close the unit was not wrong.

January 2013 - Operation Loricated Established

4544. Operation Loricated was established in January 2013 to implement recommendation 1 of the Comrie Review:⁵⁶⁸⁶

That Victoria Police reconstruct the full interpose file for 3838 so that to the fullest extent possible it presents as a complete, factual, sequential and accountable record of the utilisation of this human source. This should also include linking of all available records and corroborative media so that all material related to this file is securely and accountably retained in the one location on interpose.

⁵⁶⁸³ Transcript of Superintendent Paul Sheridan, 5 December 2019, 10596, TRN.2019.12.05.01.

⁵⁶⁸⁴ Exhibit RC1255 Statement of Mr Douglas (Doug) Fryer, 18 [101], VPL.0014.0073.0001 @.0018.

⁵⁶⁸⁵ See Exhibit RC1306 Further statement of Mr Jeffrey (Jeff) Pope, 21 January 2020, 14 [60] - 27 [88], COM.0010.0001.0001 @.0014 - .0027; Exhibit RC0835 Statement of Detective Superintendent Paul Sheridan, 12 November 2019, 8 [46] - 9 [52], VPL.0014.0087.0001 @.0008 - .0009; Exhibit RC1166 Supplementary Statement of Detective Superintendent Paul Sheridan, 12 December 2019, VPL.0014.0087.0013; Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 23 [129] - 28 [157], VPL.0014.0077.0001 @.0023 - .0028.

⁵⁶⁸⁶ Exhibit RC0510 Comrie Review as available on Supreme Court website, VPL.0005.0001.0001.

4545. The Project Sponsor of Operation Loricated was then Mr Cartwright.⁵⁶⁸⁷ The Steering Committee was chaired by then Assistant Commissioner Steve Fontana and Mr McRae was a member of the Committee.⁵⁶⁸⁸
4546. On 16 and 22 January 2013, Messrs McRae, Mark Galliot, Gleeson and Fryer met to design the terms of reference.⁵⁶⁸⁹
4547. An initial Project Management Plan was drafted in January 2013.⁵⁶⁹⁰ The objectives of Project Loricated included reviewing and analysing the reconstructed human source file and identifying the relevant issues that warranted further investigation.⁵⁶⁹¹
4548. In his statement to the Commission, Mr Cartwright noted that the tasks undertaken by Loricated members were voluminous and challenging.⁵⁶⁹² An enormous amount of written and audio material was to be recovered, securely stored, analysed and then classified into themes.⁵⁶⁹³ There were thousands of documents to be dealt with, going back to 2005, when Ms Gobbo was first registered.⁵⁶⁹⁴ Mr Cartwright stated that each interaction with Ms Gobbo was to be considered, and it was also necessary to track what, if anything, had been done with the information provided by her.⁵⁶⁹⁵

Loricated Excludes Petra; Progresses Slowly

4549. On 14 March 2013, the Loricated Steering Committee met and decided that the Project team should not consider the Petra materials and should only look at intelligence and dealings with the SDU.⁵⁶⁹⁶
4550. Mr McRae, who was not present at the meeting on 14 March 2013, but was present at the Committee meeting on 28 March 2013 when the minutes were approved, acknowledged that the Petra material was significant because it contained evidence about how Ms Gobbo became a witness.⁵⁶⁹⁷
4551. Mr McRae gave evidence to the Commission that the Petra materials would have been relevant to the task of Operation Loricated for a full analysis of the history.⁵⁶⁹⁸ Mr McRae noted that the Petra holdings contained a lot of information about the knowledge of senior members of Victoria Police

⁵⁶⁸⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 37 [7.2], VPL.0014.0089.0003 @.0039.

⁵⁶⁸⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 37 [7.3], VPL.0014.0089.0003 @.0039.

⁵⁶⁸⁹ Exhibit RC1255 Statement of Mr Douglas (Doug) Fryer, 7 October 2019, 19 [107], VPL.0014.0073.0001 @.0019.

⁵⁶⁹⁰ Exhibit RC1293 Human Source 3838 Document review Project Management Plan Intelligence and Covert Support commence, 21 January 2013, VPL.0100.0132.0093.

⁵⁶⁹¹ Exhibit RC1293 Human Source 3838 Document review Project Management Plan Intelligence and Covert Support commence, 21 January 2013, VPL.0100.0132.0093.

⁵⁶⁹² Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 11 [72], VPL.0014.0121.0001 @.0011.

⁵⁶⁹³ Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 11 [72], VPL.0014.0121.0001 @.0011.

⁵⁶⁹⁴ Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 11 [72], VPL.0014.0121.0001 @.0011.

⁵⁶⁹⁵ Exhibit RC1273 Statement of Mr Tim Cartwright, 17 December 2019, 11 [72], VPL.0014.0121.0001 @.0011.

⁵⁶⁹⁶ Exhibit RC1294 Human Source 3838 Document Review Steering Committee minutes, 14 March 2013, 2, VPL.0005.0018.0833 @.0834.

⁵⁶⁹⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12924, TRN.2020.02.03.01.

⁵⁶⁹⁸ Transcript of Mr Findlay McRae, 3 February 2020, 12925, TRN.2020.02.03.01.

Command, including Messrs Cornelius, Ashton, Overland and Moloney who were all on the Petra Taskforce Steering Committee.⁵⁶⁹⁹

4552. Mr Cartwright told the Commission that 'looking back' he could understand the Commission's concern that this process took a very long time.⁵⁷⁰⁰
4553. Mr McRae also noted that it took Operation Loricated a long time to identify relevant issues arising from the SDU source file for Ms Gobbo and that they seemed to find this difficult to do.⁵⁷⁰¹
4554. By June 2013, the review had progressed to a point where the key risks were beginning to emerge and were reported to the Steering Committee.⁵⁷⁰² The Steering Committee had instructed that this material should be properly analysed and presented to the DPP or IBAC for appropriate further action.⁵⁷⁰³

6 June 2013 – Loricated Steering Committee Acknowledges Unfair Trial Risk; Resolves to Analyse Material before Disclosure to DPP or IBAC

4555. On 6 June 2013, the Steering Committee met to discuss the risks associated with the material being collated.⁵⁷⁰⁴ Mr Fryer, Mr Sheridan, Mr Gerry Ryan, Mr Galliot and Mr McRae attended the meeting. Mr Fontana chaired the meeting.
4556. The Committee agreed that the legal issues, including past trials conducted unfairly represented the greatest risk. The meeting minutes recorded that 'FM & DF have briefed the DPP on the issue'.⁵⁷⁰⁵ The references to 'FM' and 'DF' were references to Messrs McRae and Fryer. Mr McRae conceded that this whole process ultimately took too long and that they did not expect that it would take a year.⁵⁷⁰⁶
4557. The Committee agreed that the material should be analysed so relevant matters could be presented to the DPP or IBAC once the project team had completed their objectives. However, they determined that an exception to this would be if clear and serious issues arose that required immediate notification to relevant individuals or organisations.
4558. The meeting minutes recorded that Mr Cartwright as Executive Sponsor had been provided with a general overview of the operation and had sought a full briefing.⁵⁷⁰⁷

⁵⁶⁹⁹ Transcript of Mr Findlay McRae, 3 February 2020, 12925, TRN.2020.02.03.01.

⁵⁷⁰⁰ Transcript of Mr Tim Cartwright, 18 February 2020, 14353, TRN.2020.02.18.01.

⁵⁷⁰¹ Transcript of Mr Findlay McRae, 3 February 2020, 12924, TRN.2020.02.03.01.

⁵⁷⁰² Exhibit RC0835 Statement of Mr Paul Sheridan, 12 November 2019, 5 [24], VPL.0014.0107.0001 @.0005.

⁵⁷⁰³ Exhibit RC0835 Statement of Mr Paul Sheridan, 12 November 2019, 5 [24], VPL.0014.0107.0001 @.0005.

⁵⁷⁰⁴ Exhibit RC1295 Operation Loricated Steering Committee minutes, 6 June 2013, VPL.0002.0001.0250.

⁵⁷⁰⁵ Exhibit RC1295 Operation Loricated Steering Committee minutes, 6 June 2013, 5, VPL.0002.0001.0250 @.0255.

⁵⁷⁰⁶ Transcript of Mr Findlay McRae, 5 February 2020, 13242, TRN.2020.02.05.01.

⁵⁷⁰⁷ Exhibit RC1295 Operation Loricated Steering Committee minutes, 6 June 2013, 6, VPL.0002.0001.0250 @.0255.

2 September 2013 – Loricated Steering Committee Discusses DPP Request for Information

4559. On 2 September 2013, Messrs Fryer, Ryan, Sheridan, McRae and then Detective Inspector Mick Frewen attended the Steering Committee meeting. Mr Fontana chaired the meeting. The minutes recorded that:⁵⁷⁰⁸

F/M discussed a meeting he had with the Director of Public Prosecutions where the issue of Conflict of interest re issues with Witness F were canvassed. Advice from the director was where conflict of interest in role of F and clients identified by project team to report back.

F/M Provided advice to Damian Jackson of project team re Conflict of Interest cover when "Witness F was clearly acting for person/client XXX"

4560. Mr McRae stated that he explained to the leader of the Project Loricated Project Team that he should identify instances where Ms Gobbo was acting for a particular person while at the same time providing information to Victoria Police about them so that they could be raised with the DPP.⁵⁷⁰⁹

4561. It could be observed that by this stage the question of Ms Gobbo's potential conflict of interest as a Victoria Police human source, or 'agent', being in conflict with the person for whom she was acting as a legal practitioner (and informing on) had been well known for a number of years. Such issues should have been the subject of close scrutiny, likewise for a number of years.

McRae's Views of Slow Progress of Loricated

4562. Mr McRae accepted that the process was too slow, given the importance of the matters that the Loricated team were required to look at, including matters that went to possible unfair trials, which they appeared to find very difficult.⁵⁷¹⁰ Mr McRae gave evidence to the Commission that he 'didn't expect it to take that long' even though by this stage, Mr McRae was aware of the volume of material in Ms Gobbo's file, including the ICRs and IRs that Mr Gleeson had previously reviewed.

4563. Mr McRae accepted that a lawyer could have been engaged at this stage to see whether there might be problems with previous trials.⁵⁷¹¹

21 March 2014 –McRae is Tasked with Assessing Legal Conflict Issues and Determining Future Steps

4564. On 21 March 2014, the Operation Loricated Steering Committee met. It comprised then Assistant Commissioner Stephen Leane and Messrs Sheridan, Frewen and Galliot. Mr Fontana chaired the meeting. Mr Leane

⁵⁷⁰⁸ Exhibit RC1296 Operation Loricated Steering Committee minutes, 2 September 2013, VPL.6112.0033.6398.

⁵⁷⁰⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 38 [7.10], VPL.0014.0089.0003 @.0040.

⁵⁷¹⁰ Transcript of Mr Findlay McRae, 3 February 2020, 12926, TRN.2020.02.03.01.

⁵⁷¹¹ Transcript of Mr Findlay McRae, 3 February 2020, 12926, TRN.2020.02.03.01.

had recently been appointed as Assistant Commissioner, Professional Standards Command (the new name for ESD).⁵⁷¹²

4565. The Committee decided that Mr McRae would be provided with a hard drive of IRs data relating to the courts, legal conflict and legal profession themes and that each item be independently assessed to determine if further action, investigation or referral was required.⁵⁷¹³

2014-2016: Lawyer X story Breaks

31 March 2014 – Herald Sun Article is Published

4566. On 31 March 2014 the Herald Sun published an article entitled 'Underworld lawyer a secret police informer'.⁵⁷¹⁴ The article alleged that Victoria Police had recruited a 'prominent underworld lawyer' to inform on criminal figures running Melbourne's drug trade. It further alleged that this registered informer, known only as 'Lawyer X' had given Victoria Police 'unprecedented access to information on some of Australia's biggest drug barons and hitmen, including alleged corrupt police and others involved in Melbourne's gangland war'.
4567. While the article did not name Ms Gobbo, a suppression order was sought by Victoria Police to suppress the publication of the article.⁵⁷¹⁵ Some copies of the paper were sold before the suppression order was obtained.⁵⁷¹⁶
4568. Victoria Police considered the media reporting in relation to 'Lawyer X' at around this time to be directly linked to threats which were subsequently made to Ms Gobbo.⁵⁷¹⁷ Mr McRae said that these threats were credible and extremely serious.⁵⁷¹⁸
4569. Victoria Police were concerned that the source of these media leaks was from within Victoria Police. That was a matter that Victoria Police considered required investigation.⁵⁷¹⁹

1 April 2014 – DPP is Told that No Information Demonstrates Gobbo Informed on Clients

4570. On 1 April 2014, Mr McRae and Mr Leane met with Mr Champion and Mr Gardner.⁵⁷²⁰

⁵⁷¹² Exhibit RC1279 Operation Loricated Steering Committee minutes, 21 March 2014, VPL.0005.0018.0898.

⁵⁷¹³ Exhibit RC1279 Operation Loricated Steering Committee minutes, 21 March 2014, VPL.0005.0018.0898.

⁵⁷¹⁴ 'Lawyer a secret police informer', *Herald Sun*, 1, VPL.6078.0032.9394.

⁵⁷¹⁵ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 7 [44] – [45], RCMP.0104.0001.0001 @.0007.

⁵⁷¹⁶ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 7 [44] – [45], RCMP.0104.0001.0001 @.0007.

⁵⁷¹⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 42 [7.21], VPL.0014.0089.0003 @.0044.

⁵⁷¹⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 41 [7.20], VPL.0014.0089.0003 @.0043.

⁵⁷¹⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 42 [7.21], VPL.0014.0089.0003 @.0044.

⁵⁷²⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 39 [7.14], VPL.0014.0089.0003 @.0041.

4571. Mr McRae made a file note of the meeting, in which he indicated that it was a follow-up from the 4 September 2012 meeting. During that earlier meeting, Mr McRae indicated that there had been suggestions that Ms Gobbo was providing information to Victoria Police about persons she was representing, including Mr Tony Mokbel.⁵⁷²¹ The purpose of this meeting was to update the DPP on the process of analysing materials provided to Victoria Police by Ms Gobbo.⁵⁷²²

4572. Mr McRae also noted:⁵⁷²³

At present there is no information that indicates there has been a miscarriage of justice and there are a number of avenues open for these issues to be raised.

4573. Mr Leane further said that the purpose of the meeting was to 'make full disclosure to the DPP of the circumstances – as Victoria Police currently understood them – surrounding Ms Gobbo and her use as an informer'.⁵⁷²⁴

4574. Mr Leane said that, during the meeting, the DPP made it clear that he had policies for miscarriage of justice and that disclosure would depend on the nature of the information.⁵⁷²⁵ Mr Leane said that they outlined the steps that Victoria Police were taking, particularly with regard to reporting to IBAC, which would occur later that day.⁵⁷²⁶

4575. Mr Gardner also made file notes of the meeting, including the following:⁵⁷²⁷

Fin [McRae] doesn't yet know if NG [Nicola Gobbo] did give police data re a person who was then a client. Query if she informed on own client.

...

Fin [McRae] 18 matters? Possibly affected

...

18 "instances"/information reports, in which NG [Nicola Gobbo] may have given information to Victoria Police, re her client.

4576. Mr Gardner also noted that:⁵⁷²⁸

Fin – IBAC has the Comrie Review – will ask Stephen O'Bryan re their progress. 'Fin [McRae] may get Shaun Le Grand (VGSO) to look at it.

⁵⁷²¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 39 [7.14], VPL.0014.0089.0003 @.0041; Transcript of Mr Findlay McRae, 3 February 2020, 12927 – 12928, TRN.2020.02.03.01.

⁵⁷²² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, [7.14], VPL.0014.0089.0003 @.0041.

⁵⁷²³ Transcript of Mr Findlay McRae, 3 February 2020, 12927 – 12928, TRN.2020.02.03.01.

⁵⁷²⁴ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 6 [27], VPL.0014.0112.0001 @.0006.

⁵⁷²⁵ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 6 [28], VPL.0014.0112.0001 @.0006.

⁵⁷²⁶ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 6 [28], VPL.0014.0112.0001 @.0006.

⁵⁷²⁷ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 7 [47], RCMP.0104.0001.0001 @.0007.

⁵⁷²⁸ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 7 [48], RCMP.0104.0001.0001 @.0007.

1 April 2014 – Meeting between IBAC and McRae, Fontana, and Leane

4577. Later that day, Mr McRae, Mr Fontana, and Mr Leane met with the Commissioner of IBAC, Mr Stephen O'Bryan. Mr Alistair MacLean, the CEO, and Mr Rob Sutton, Director of Investigations, were also present.⁵⁷²⁹
4578. Mr McRae said that Victoria Police considered that IBAC was the appropriate authority to undertake further investigations into police conduct, as it related to potential media leaks. He told the Commission contact was made with IBAC in the first instance because there were concerns that Victoria Police officers had leaked the story to the Herald Sun and he wanted this investigated.⁵⁷³⁰
4579. Discussions with IBAC then also covered whether IBAC should oversee the work Victoria Police was doing to implement the Comrie Review/Operation Loricated.
4580. Mr McRae was apparently keen to have IBAC involved in investigating issues related to cases 'because of its coercive hearing powers'. Mr McRae said he had held this view since he discussed the Comrie Review and Mr Gleeson's out of scope report with the OPI in August 2012.⁵⁷³¹
4581. Mr McRae took a file note of the meeting with IBAC, which included the following:⁵⁷³²

The existence of the Comrie file which was provided to the OPI was noted and it was noted that OPI had left the matter with Victoria Police to progress through Operation Loricated.

...

It was noted that IBAC does not consider that it is overlooking the investigation nor has a review function at this point.

4582. Mr McRae also noted the following next steps:⁵⁷³³

The Chief Commissioner to consider whether to write to IBAC to be provided with the final report or to consider whether to request some review function.

4583. Mr Leane said that he recalled the briefing being similar to that given to the DPP.⁵⁷³⁴ The purpose of the meeting was to fully brief IBAC, and to make full disclosure to IBAC of issues related to Ms Gobbo, as they were known to Victoria Police at that time.⁵⁷³⁵

⁵⁷²⁹ Exhibit RC1067, Statement of Mr Findlay McRae, 13 November 2019, 40 [7.16], VPL.0014.0089.0003 @.0042; Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 6-7 [30], VPL.0014.0112.0001 @.0006 - .0007.

⁵⁷³⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 42 [7.21], [7.23] - [7.24], VPL.0014.0089.0003 @.0044.

⁵⁷³¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 42, [7.25], VPL.0014.0089.0003 @.0044.

⁵⁷³² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 40 [7.16], VPL.0014.0089.0003 @.0042.

⁵⁷³³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 40 [7.16], VPL.0014.0089.0003 @.0042.

⁵⁷³⁴ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 7 [31], VPL.0014.0112.0001 @.0007.

⁵⁷³⁵ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 7 [31], VPL.0014.0112.0001 @.0007.

4584. On 3 April 2014, IBAC wrote to Mr Cartwright to follow up on the 1 April meeting, seeking clarification on a number of matters.⁵⁷³⁶

3 April 2014 – Meeting between DPP and Counsel to Discuss DPP Disclosure Obligations

4585. On 3 April 2014, Mr Champion, Mr Silbert, Mr Hyland and Mr Gardner met to discuss whether the DPP had any disclosure obligations in respect of Ms Gobbo's activities as an informer.⁵⁷³⁷ Mr Gardner made a file note of that meeting, which stated:⁵⁷³⁸

Answer: No present obligation because cannot identify how to find affected files or matters.

Our files wouldn't contain any NG data anyway

Await IBAC moves

Not appropriate to ask VicPol for data.

4586. Mr Gardner said that the reference to 'not appropriate to ask VicPol for data' referred to the fact that 'that Victoria Police were in possession of a very large volume of raw material, much of which it would be difficult for the DPP to interpret, which Victoria Police and IBAC were already attempting to analyse.'⁵⁷³⁹

7 April 2014 – McRae tells DPP No Information has Emerged Requiring DPP Consideration

4587. On 7 April 2014 Mr McRae wrote to the DPP following on from the meeting of 1 April 2014.⁵⁷⁴⁰ Mr McRae noted that Victoria Police was about to commence a 'triage' of matters related to potential prosecutions undertaken by the DPP.⁵⁷⁴¹

4588. Mr McRae further stated in that letter:⁵⁷⁴²

As indicated at our previous meeting we will provide any information that arises that may warrant consideration of your office in regard to the running of criminal prosecutions. I can confirm that at this time I have not received information that has necessitated your consideration.

As you are aware our focus has been on safety issues in regard to the risk of the identification of this person. That safety risk is our primary concern at present.

⁵⁷³⁶ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 7 [33], VPL.0014.0112.0001 @.0007.

⁵⁷³⁷ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 7 [49], VPL.0014.0112.0001 @.0007.

⁵⁷³⁸ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 7 – 8 [50], VPL.0014.0112.0001 @.0007 - @.0008.

⁵⁷³⁹ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 8 [51], VPL.0014.0112.0001 @.0008.

⁵⁷⁴⁰ Exhibit RC1716 Letter from Findlay McRae to John Champion, 7 April 2014, VPL.0005.0003.0145.

⁵⁷⁴¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 41 [7.18], VPL.0014.0089.0003 @.0043.

⁵⁷⁴² Exhibit RC1716 Letter from Findlay McRae to John Champion, 7 April 2014, VPL.0005.0003.0145.

4589. In his statement to the Commission, Mr McRae clarified that at the time he sent the letter he had not reviewed the IRs. He was referring to the fact that he had not reviewed this material and therefore had nothing to provide to the DPP. Additionally, he had not formed a view that there had been a miscarriage of justice.⁵⁷⁴³
4590. It is submitted that in Mr McRae's 7 April 2014 letter to the DPP, he should have confirmed that in saying he had '...not received information that has necessitated ... consideration', that he had not actually reviewed IRs at that stage.
4591. Mr McRae agreed that this meant that the OPP was 'waiting' for him to come back to them with any concerns.⁵⁷⁴⁴

10 April 2014 – Chief Commissioner Requests IBAC Involvement

Lay Provides Information to IBAC and Requests Independent IBAC Investigation

4592. On 10 April 2014, the Chief Commissioner Mr Lay wrote to IBAC Commissioner Mr O'Bryan in response to Mr O'Bryan's letter of 3 April 2014.⁵⁷⁴⁵
4593. Mr Lay's letter set out a brief and high-level chronology of Ms Gobbo's role with Victoria Police, which commenced with her approach to the MDID in September 2005. It skipped over her significant period of informing in late 2005 and 2006.
4594. It then referred to the following facts:
- i. the Petra Taskforce approved Ms Gobbo to be a witness in the prosecution of Mr Dale*
 - ii. Ms Gobbo signing a statement*
 - iii. discussions regarding Ms Gobbo's entry into witness protection*
 - iv. the civil case in 2010*
 - v. broader issues of informer management.*
4595. Mr Lay also stated that:
- There are a number of aspects of this investigation and peripheral issues that cause me significant concerns. I am of the view that the allegations require an investigation independent of Victoria Police. This view was formed after considering:*
- i. The very real potential of a witness being murdered as a result of possible leaks from Victoria Police;*
 - ii. The extraordinarily high level of media and public interest in this matter, and;*

⁵⁷⁴³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 41 [7.19], VPL.0014.0089.0003 @.0043.

⁵⁷⁴⁴ Transcript of Mr Findlay McRae, 3 February 2020, 12929, TRN.2020.02.03.01.

⁵⁷⁴⁵ Exhibit RC1711 Letter from Kenneth Lay to Stephen O'Bryan, 10 April 2014, 361, VPL.0100.0001.0848 @.1208.

iii. *The additional investigative tools that are open to IBAC, specifically, coercive hearings.*

4596. Mr Lay also requested that IBAC take primacy of the investigation into the media links that related to Witness 'F' and that IBAC also conduct a post implementation review of the recommendations contained in the Comrie Review.

Operation Bendigo

Commencement of Operation Bendigo—Identifying Conflicts Beyond the Scope of Loricated

4597. Operation Bendigo commenced on 8 April 2014.⁵⁷⁴⁶

4598. Amongst other matters, Operation Bendigo was tasked with considering issues of potential legal conflict that had been identified through Operation Loricated but were considered to be beyond the scope of that operation.

4599. In light of the response of the DPP and IBAC, Mr McRae said that he considered that case studies needed to be prepared that identified specific instances of conflict. If necessary, the case studies would then be provided to the DPP and/or IBAC.⁵⁷⁴⁷

4600. The first meeting of the Steering Committee also occurred on 8 April 2014.⁵⁷⁴⁸ Mr Leane had set out the issues which he intended to be the Terms of Reference of Operation Bendigo.⁵⁷⁴⁹ The Terms of Reference as they were agreed at that first meeting were:⁵⁷⁵⁰

1. *Oversee the protection and management of 3838*
2. *Assess the performance and implementation against*
 - *The Comrie Review*
 - *Loricated (Recommendation 1 of Comrie Review)*
 - *Robinson review*
3. *Coordination of interaction with other agencies and stakeholders*
 - *IBAC*
 - *OPP*
 - *Legal Services Commissioner*
4. *Oversee and coordinate any legal actions including:*
 - *Suppression*
 - *Civil Litigation*
 - *Other inquiries*
5. *Manage conflict of interest issues*

⁵⁷⁴⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 41 [7.20], VPL.0014.0089.0003 @.0043.

⁵⁷⁴⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 42 [7.22], VPL.0014.0089.0003 @.0044.

⁵⁷⁴⁸ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, [39].

⁵⁷⁴⁹ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 8 – 9 [39], VPL.0014.0112.0001 @.0008 - .0009.

⁵⁷⁵⁰ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 8 – 9 [39], VPL.0014.0112.0001 @.0008 - .0009.

4601. Mr Leane met with Mr Gleeson on 9 April 2014 to discuss Mr Gleeson's views as to the work that he had done for the Comrie Review.⁵⁷⁵¹
4602. On 10 April 2014, Mr McRae, Mr Leane and Mr Lay met with Mr O'Bryan, Mr McLean and Mr Sutton to formally request that IBAC conduct its own investigation.⁵⁷⁵² Mr Lay handed Mr Sutton a letter, which set out the request. IBAC declined to investigate.⁵⁷⁵³
4603. On 15 April 2014, Mr McRae met with Mr Leane and Mr Le Grande to peruse the extracts provided by Operation Loricated.⁵⁷⁵⁴ Mr McRae and Mr Leane had determined to seek advice from the VGSO in relation to them.⁵⁷⁵⁵ The VGSO subsequently provided that advice on 23 April 2014. The substance of the advice was to the effect that police members with adequate knowledge of the matters discussed in the log entries should review the materials, with the assistance of counsel.⁵⁷⁵⁶

Legal Conflict Reports, Identification of Potential Miscarriage regarding Prosecution of Mr Cooper

4604. In April 2014, the Steering Committee of Operation Bendigo established a Document Management Working Group to provide a detailed chronology of the key issues regarding the management of Ms Gobbo by Victoria Police.⁵⁷⁵⁷ It was led by Mr Gleeson and Mr Lardner. As part of the Working Group, Mr Gleeson and Mr Lardner were tasked to:⁵⁷⁵⁸
- source all high-level reports relevant to Ms Gobbo
 - prepare a detailed chronology relating to Ms Gobbo's involvement with Victoria Police
 - develop a high-level document catalogue in relation to Ms Gobbo
 - create a governance framework for the management of materials relating to Ms Gobbo.
4605. Mr Lardner said that he and Mr Gleeson were only allocated a short period of time to complete this work. As part of the tasking, a report was produced which identified some specific legal conflict issues that had been identified by Mr Gleeson.⁵⁷⁵⁹ This had come at the request of Mr McRae, who had

⁵⁷⁵¹ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 9 [40], VPL.0014.0112.0001 @.0009.

⁵⁷⁵² Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 9 [41], VPL.0014.0112.0001 @.0009.

⁵⁷⁵³ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 9 [41], VPL.0014.0112.0001 @.0009.

⁵⁷⁵⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 43 [7.27], VPL.0014.0089.0003 @.0045; Exhibit RC1276 Statement of Stephen Leane, 3 December 2019, 10 [45], VPL.0014.0112.0001 @.0010.

⁵⁷⁵⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 43 [7.27], VPL.0014.0089.0003 @.0045.

⁵⁷⁵⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 43 [7.27], VPL.0014.0089.0003 @.0045.

⁵⁷⁵⁷ Exhibit RC1231 Statement of Detective Superintendent Peter Lardner, 27 November 2019, 13 [72], VPL.0014.0102.0001 @.0013.

⁵⁷⁵⁸ Exhibit RC1231 Statement of Detective Superintendent Peter Lardner, 27 November 2019, 13 [72], VPL.0014.0102.0001 @.0013.

⁵⁷⁵⁹ Exhibit RC1407 Statement of Superintendent Stephen Gleeson dated 6 November 2019, 16 [71], VPL.0014.0084.0001 @.0016.

asked him to identify historical prosecutions which would be suitable for use as case studies to consider if Ms Gobbo's use as a human source had affected prosecutions.⁵⁷⁶⁰ Mr Gleeson's recommendations are set out in a document titled 'Operation Bendigo – Document Management Working Group – Potential Legal Conflict Examples'.⁵⁷⁶¹

4606. On 29 April 2014, an Operation Bendigo Investigation Group was set up to continue with analysis of five specific case studies involving legal conflict. That Group had been set up in response to the memorandum from the VGSO dated 23 April 2014.⁵⁷⁶² Inspector Swain led the preparation of the case studies. The group conducting the case studies were authorised to review Loricated material and to interview investigating officers, as necessary.
4607. The Operation Bendigo Investigation Group were allowed to access whatever materials they required, including Purana and Petra shared drives, and to speak to police members.⁵⁷⁶³ Five specific case studies were progressed by Operation Bendigo:
- Case study 1 – Milad Mokbel, Mr Agrum, Domenic Barbaro.
 - Case study 2 – Zahroula Mokbel.
 - Case study 3 – Rabi Karam (Agamas and Inca).
 - Case study 4 – Mr Cooper.
 - Case study 5 – Tony Mokbel (extradition proceeding).
4608. These case studies were identified with the assistance of Mr Gleeson.⁵⁷⁶⁴
4609. On 12 May 2014, a meeting of the Operation Bendigo Investigation Group was held. During the meeting, Mr McRae said that he explained the purpose of the investigation, which was to identify instances of legal conflict which may reflect potential miscarriages of justice. This is evidenced by a file note he took of the meeting. There was a 'multidisciplinary' team put in place, including only one legal practitioner.
4610. In his file note of the meeting, Mr McRae outlined other questions for consideration, including:⁵⁷⁶⁵

Information provided to police regarding own clients?

How was the information used? Was it given to an investigator?

Did the information have an impact on a court outcome?

⁵⁷⁶⁰ Exhibit RC1407 Statement of Superintendent Stephen Gleeson dated 6 November 2019, 16 [72], VPL.0014.0084.0001 @.0016.

⁵⁷⁶¹ Exhibit RC1298 Document headed 29 April 2014 Operation Bendigo – Document Management Working Group Potential Legal Conflict Examples, VGSO.2000.1501.0167.

⁵⁷⁶² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 43 [7.29], VPL.0014.0089.0003 @.0045.

⁵⁷⁶³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 43 [7.29], VPL.0014.0089.0003 @.0045.

⁵⁷⁶⁴ Transcript of Mr Findlay McRae, 3 February 2020, 12931, TRN.2020.02.03.01.

⁵⁷⁶⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 43 - 44 [7.31], VPL.0014.0089.0003 @.0045 - .0046.

4611. The case studies were completed between September to November 2014. With the exception of the case study completed in respect of Mr Cooper, it was concluded in each case study that there was 'no clear evidence that Ms Gobbo's involvement had impacted on the outcome of the Court process.'⁵⁷⁶⁶ Mr McRae said that he did not accept these findings as the information in the case studies left unanswered questions.⁵⁷⁶⁷
4612. Mr Cooper's case study concluded that there was likely to be a miscarriage of justice that required disclosure.⁵⁷⁶⁸
4613. The effect of Mr McRae's evidence was that, because he was not requesting legal advice from them, the fact that there was one lawyer on the team was not concerning. Rather, it was appropriate as he simply wanted a factual analysis that answered the questions that had been posed.⁵⁷⁶⁹

Further Communications with IBAC about Legal Conflict Reports

4614. Victoria Police continued to communicate with IBAC as the conflict reports were in the process of being produced.
4615. On 1 May 2014 Mr Gleeson and Mr Lardner provided an update briefing to Mr Sutton and Ms Martin of IBAC.⁵⁷⁷⁰
4616. On 14 May 2014, the Chief Commissioner sent a letter to Mr O'Bryan in relation to access to the Loricated database.⁵⁷⁷¹ It stated:⁵⁷⁷²

I am now aware there are further materials contained on the Interpose database and other files that may relate to Witness F (3838). In any event, the 'Loricated' database may now be made available to IBAC by arrangement with Assistant Commissioner Stephen Leane.

The Operation Loricated Steering Committee will continue to address outstanding information reports dealing with crime themes, corruption, 'legal issues' and other matters identified by the Committee for further action. If any matter raises concerns regarding a prosecution, it is intended that Victoria Police will notify the Director of Public Prosecutions.

4617. Mr McRae said that he formed the view that IBAC was the most appropriate forum to consider potential miscarriage issues. He said that he formed that view for the following reasons:

⁵⁷⁶⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 47 [7.36], VPL.0014.0089.0003 @.0049.

⁵⁷⁶⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 47 [7.36], VPL.0014.0089.0003 @.0049.

⁵⁷⁶⁸ Transcript of Mr Findlay McRae, 3 February 2020, 12933, TRN.2020.02.03.01.

⁵⁷⁶⁹ Transcript of Mr Findlay McRae, 3 February 2020, 12934, TRN.2020.02.03.01.

⁵⁷⁷⁰ Exhibit RC1231 Statement of Mr Peter Lardner, 27 November 2019, [73]; Exhibit RC 1407 Statement of Superintendent Stephen Gleeson dated 6 November 2019, 14 [73], VPL.0014.0102.0001 @.0014; Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 11 [47], VPL.0014.0112.0001 @.0011.

⁵⁷⁷¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 46 - 47 [7.33], VPL.0014.0084.0003 @.0048 - .0049.

⁵⁷⁷² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 46 - 47 [7.33], VPL.0014.0084.0003 @.0048 - .0049.

- Victoria Police still had serious safety concerns in relation to Ms Gobbo
- IBAC had the ability to conduct in camera hearings, which would enable it to examine witnesses in private and to make findings of fact that would assist in determining whether prosecutions were tainted.

4618. On 5 November 2014, a letter was written to IBAC to request that it accept a referral of the legal issues identified in Operation Loricated. In a letter from the Deputy Commissioner of IBAC, Andrew Kirkham QC, IBAC declined that referral on 13 November 2014. In that letter, Mr Kirkham noted that the reason for this refusal was that IBAC had 'serious doubts' as to whether its governing legislation permitted direct involvement in police operations.⁵⁷⁷³

The Hodson Inquest

4619. On 19 May 2014, the Inquest into the Deaths of Terence and Christine Hodson commenced in the Coroners Court before the State Coroner, Judge Ian Gray.⁵⁷⁷⁴ This became the first instance in which Victoria Police acknowledged to a judicial officer in a proceeding that Ms Gobbo had been a human source.

4620. As referred to earlier in these submissions, these matters had been the subject of significant investigation by the Petra Taskforce. As also dealt with earlier, in particular in Chapters 14 and 17, Ms Gobbo had significant connection with the circumstances surrounding the murders, including that:

- she had been the first person contacted on the night of the murder by Mr Andrew Hodson upon the discovery of his parents' bodies
- she had been out to dinner on the night of the murder with Mr Adam Ahmed, in circumstances where there was evidence as to his prior knowledge of the murder and the need for an alibi
- she was understood to have been the conduit between Carl Williams and Paul Dale in relation to an allegation that Paul Dale engaged Carl Williams to have Mr Terence Hodson murdered
- she had recorded a conversation with Mr Dale on 7 December 2008, following his examination at the ACC as to his relationship with Mr Carl Williams
- she had signed a statement dated 7 January 2009 and had consequently been a witness against Mr Dale when he was charged with the murders in 2009, then charged with offences pursuant to the ACC Act in 2011, but had never been called or subject to any examination (aside from limited examinations in OPI hearings in 2007).

4621. The Brief of Evidence submitted to the Coroner included the statement from Ms Gobbo dated 7 January 2009, referred to in Chapter 17.

4622. In the lead up to the Inquest there was a request made to the Coroner by Victoria Police that Ms Gobbo not be called as a witness in the case due to

⁵⁷⁷³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 49 [7.44], VPL.0014.0089.0003 @.0051.

⁵⁷⁷⁴ Exhibit RC1835 Coroners Findings into Deaths with Inquest, 31 July 2015, COM.0051.0001.0001.

'concerns for her safety'. It is unclear when and in what form Judge Gray received this request.⁵⁷⁷⁵

4623. An email train from the Coroners Court to parties interested in the proceedings dated 17 April 2014 attached a draft witness list and indicated that '[a] decision with respect to Nicola Gobbo has not been finalised' and requesting further submissions from counsel for Mr Dale. Those submissions were circulated on 23 April 2014.⁵⁷⁷⁶ Representatives of Mr Dale submitted that Ms Gobbo ought to be called to give evidence.⁵⁷⁷⁷
4624. On around 7 May 2014, Victoria Police instructed the VGSO to brief counsel in relation to the making of suppression orders. It was noted that even if Ms Gobbo was not called to give evidence, it was considered highly likely that other parties involved in the inquest would seek to discuss Ms Gobbo's relationship with Victoria Police. There was a desire to seek orders preventing the media from publishing any further information which might disclose any relationship between Ms Gobbo and Victoria Police beyond that which was already in the public domain.⁵⁷⁷⁸ Mr McRae advised Mr Fontana that the Inquest would open with a suppression application, which was important as whether or not Ms Gobbo was called as a witness would be an issue in the proceeding.⁵⁷⁷⁹
4625. On 16 May 2014, a number of affidavits were filed in support of a Victoria Police submission that reference to Ms Gobbo should be suppressed from publication:
- Confidential Affidavit sworn by Mr O'Connor⁵⁷⁸⁰
 - Confidential Affidavit sworn by Officer 4 ⁵⁷⁸¹
 - Affidavit sworn by Officer 4 .⁵⁷⁸²
4626. Mr O'Connor swore that:

Nicola Gobbo (Gobbo) was registered as an informer in 2005. She was deregistered as an informer in 2009. I verily believe that prior to Gobbo providing any information to Victoria Police and being registered as an informer, Gobbo was assured that her identity would be protected and would not be disclosed.

As a registered informer, Gobbo provided information to Victoria Police in relation to various serious and organised crime figures in Victoria, some of whom are notorious and violent convicted criminals.

⁵⁷⁷⁵ Exhibit RC0718 Email chain involving VGSO, Findlay McRae, Kieran Walsh and Boris Buick, 8 - 14 May 2014, VPL.6031.0018.1591.

⁵⁷⁷⁶ Email chain from Coroners Court to interested parties, 23 October 2013 - 29 April 2014, VPL.6031.0016.0781 @.0782.

⁵⁷⁷⁷ Exhibit RC0718 Email chain between VGSO, Findlay McRae, Kieran Walsh and Boris Buick, 8 - 14 May 2014, VPL.6031.0018.1591.

⁵⁷⁷⁸ Exhibit RC1672 Email chain involving VGSO, Findlay McRae, Stephen Fontana, Kieran Walsh, 7 May 2014, VPL.6023.0093.9642.

⁵⁷⁷⁹ Exhibit RC1672 Email chain involving VGSO, Findlay McRae, Stephen Fontana, Kieran Walsh, 7 May 2014, VPL.6023.0093.9642.

⁵⁷⁸⁰ Exhibit RC1655 Confidential affidavit sworn by Mr John O'Connor, 16 May 2014, RCMPI.0016.0001.0004.

⁵⁷⁸¹ Exhibit RC1592 Confidential affidavit sworn by Officer 4, 16 May 2014, RCMPI.0016.0001.0003.

⁵⁷⁸² Exhibit RC1656 Affidavit sworn by Officer 4, 16 May 2014, RCMPI.0016.0001.0002.

*The ability of Victoria Police to utilise and recruit informers is inherently dependant on the fact that such informers have a high level of confidence that their anonymity and personal safety is of paramount importance to Victoria Police, law enforcement and the judicial process.*⁵⁷⁸³

4627. Mr O'Connor also referred to Ms Gobbo being the person referred to as 'Lawyer X' and attached various media articles.⁵⁷⁸⁴
4628. Officer 4, [REDACTED], in his confidential affidavit also referred to his knowledge that Ms Gobbo was a registered human source between 2005 and 2009. He confirmed that Ms Gobbo was the person referred to as 'Lawyer X' in the media.⁵⁷⁸⁵
4629. Officer 4 referred to historical risk assessments of Ms Gobbo and opined as to the current risk to her. He indicated 'grave concerns' about the publication or disclosure of information relating to Ms Gobbo, opining that it would place Ms Gobbo at the 'highest possible risk of serious injury or death'.
4630. On 19 May 2014, Judge Gray made an interim suppression order in relation to Ms Gobbo and other persons.⁵⁷⁸⁶ On or at some time following this date, Judge Gray also determined that Ms Gobbo should be 'excused from giving evidence on the basis of the potential risk to the safety of this witness'.⁵⁷⁸⁷

Gobbo Involvement Raised in the Briars Trial

4631. In May 2014, the trial of Mr Evangelos Goussis, Warren Shea and Mark Perry was taking place in the Supreme Court. They had been charged by the Briars Taskforce with the murder of Mr Shane Chartres-Abbott. As referred to in Chapter 14, Mr Gregory was a crucial witness in that trial.
4632. In June 2014, Ms Gobbo became aware of her name having been raised in connection with the case and raised it with Victoria Police. An Issue Cover Sheet⁵⁷⁸⁸ was then directed to Detective Superintendent Teresa Walsh, Mr Fontana and Mr McRae, advising that:
- on 25 May 2014, in the course of his evidence Mr Gregory said that he had had come forward in relation to the murder when he became concerned that Mr Goussis might implicate him. He said that he learned this when he had a visit from Ms Gobbo
 - the issue was raised again on 18 June 2014, when it was described in discussion as 'the informer issue'

⁵⁷⁸³ Exhibit RC1655 Confidential affidavit sworn by Mr John O'Connor, 16 May 2014, 21 [8]-[10], RCMPI.0016.0001.0004 @.0021.

⁵⁷⁸⁴ Exhibit RC1655 Confidential affidavit sworn by Mr John O'Connor, 16 May 2014, 19 [18], RCMPI.0016.0001.0004 @.0019.

⁵⁷⁸⁵ Exhibit RC1834 Confidential affidavit sworn by Officer 4, 16 May 2014, RCMPI.0016.0001.0003.

⁵⁷⁸⁶ Exhibit 1834 Coroners Court Interim Suppression Order, 19 May 2014, VGSO.5000.0050.1756.

⁵⁷⁸⁷ Exhibit RC1835 Coroners Findings into Deaths with Inquest, 31 July 2015, 8 [33], COM.0051.0001.0001 @.0008.

⁵⁷⁸⁸ Exhibit RC1788 Issue Coversheet dated 25 June 2014, attaching transcript of trial of Mr Warran Shea, Mr Evangelos Goussis and Mr Mark Perry, 26 May 2014 and 18 June 2014, VGSO.2000.0021.0166.

- Ms Gobbo ‘denies engaging with Gregory in any way in connection with this issue’
 - there was concern that these references may create speculation among the serving prisoner population and other sections of the community, including the media, that Ms Gobbo was ‘assisting in current (and possibly future) prosecutions’.
4633. The ICS attached the trial transcript and recommended that ‘this issue is raised with the Director Legal Services [Mr McRae] for advice in terms of managing this risk’.

4634. **On the evidence, it is open to the Commissioner to find that, given Ms Gobbo’s relationship with Victoria Police, the assertion by the key witness in the trial of Mr Evangelos Goussis, Warren Shea and Mark Perry that Ms Gobbo provided him with information which led him to make the allegations, ought to have raised a concern within Victoria Police as to whether, contrary to her denial, Ms Gobbo had a connection with the case.**

Communications with the DPP

28 October 2014 - DPP Told ‘No matters of Substance to Report as Yet’ regarding Operation Bendigo

4635. Because of the ongoing duty of disclosure, Mr McRae considered that the DPP was the relevant prosecution authority to provide the case studies to, however:
- after numerous conferences with the DPP, it was apparent to Mr McRae that while the DPP was aware of the existence of the documents, he had not required access to these documents
 - if the DPP had required access to those documents, it was probable that there would be lengthy PII arguments.
4636. On 28 October 2014, Mr McRae attended a conference with Mr Champion. Mr McRae did not take the reports with him.⁵⁷⁸⁹ He said that the purpose of the meeting was to provide Mr Champion with an update that the investigators had told Mr McRae that they had completed them.⁵⁷⁹⁰
4637. Mr McRae made a file note of that discussion during the meeting.⁵⁷⁹¹ That file note included a note in relation to an update on case studies, noting that there were ‘no matters of substance to report as yet’.⁵⁷⁹² Mr McRae said that the fact that there were no matters of substance to report was something he had said on a number of occasions to the DPP. The point he said he was making was that he had not identified any matters that would suggest that there had been a miscarriage of justice, as distinct from an obligation to

⁵⁷⁸⁹ Transcript of Mr Findlay McRae, 3 February 2020, 12939, TRN.2020.02.03.01.

⁵⁷⁹⁰ Transcript of Mr Findlay McRae, 3 February 2020, 12939, TRN.2020.02.03.01.

⁵⁷⁹¹ Exhibit RC1132 File note of Mr Findlay McRae, 28 October 2014, VPL.0005.0003.2694.

⁵⁷⁹² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 48 [7.39], VPL.0014.0089.0003 @.0050.

disclose.⁵⁷⁹³ Mr McRae also said in evidence that he was unsure as to whether he had looked at Mr Cooper's case study at this time, which clearly indicated that a conflict existed.⁵⁷⁹⁴

4638. Mr McRae said that he could not recall whether he had read some of the case studies or all of them by that stage.⁵⁷⁹⁵ He subsequently stated in his evidence before the Commission 'Yes, well I essentially have read them all when they are given to me and I go and read them to him.'⁵⁷⁹⁶ However, he later agreed that he would not have read them to the DPP at that stage as he did not have them with him at that meeting.⁵⁷⁹⁷
4639. Although the report regarding Mr Cooper was on any view a matter of 'substance', and evidenced in clear terms Ms Gobbo's conflicted position as an informer and barrister for the same person, Mr McRae said that he did not have that report at that time.⁵⁷⁹⁸ The report is dated 15 September 2014, and the 'Issue Coversheet' is dated and signed by its author, Detective Inspector Monique Swain, 16 September 2014, and signed by A/C Stephen Leane on 19 September. If the Director of Legal Services had not read the report prior to attending upon Mr Champion, on 28 October 2014, that would be disappointing, given that it had been in existence for more than a month. On the other hand, if he had read the report and told Mr Champion that there were 'no matters of substance yet', he either did not appreciate the content of the report or if he did he could not have been telling Mr Champion the truth.
4640. Mr McRae agreed that the matters raised in the Cooper report would trigger an obligation to disclose.⁵⁷⁹⁹

November 2014 –Discussions with DPP regarding 'Examples' of Conflict; DPP Told No Miscarriage Issues Identified

4641. On 17 November 2014, Mr McRae had a meeting with Mr Leane, in which next steps for the case studies were discussed.⁵⁸⁰⁰ According to a file note Mr McRae took of the meeting, they discussed making a referral to the DPP (both State and Commonwealth); referral to a QC/SC; or referral to the DPP with a SC/QC to advise.⁵⁸⁰¹
4642. On 25 November 2014, Mr McRae and Mr Leane met with the DPP and Mr Gardner.⁵⁸⁰² The day before, Mr McRae had emailed Mr Gardner, providing a document entitled 'Legal Conflict Report' which provided five

⁵⁷⁹³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 48 [7.39], VPL.0014.0089.0003 @.0050.

⁵⁷⁹⁴ Transcript of Mr Findlay McRae, 3 February 2020, 12941, TRN.2020.02.03.01.

⁵⁷⁹⁵ Transcript of Mr Findlay McRae, 3 February 2020, 12939, TRN.2020.02.03.01.

⁵⁷⁹⁶ Transcript of Mr Findlay McRae, 3 February 2020, 12940, TRN.2020.02.03.01.

⁵⁷⁹⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12944, TRN.2020.02.03.01.

⁵⁷⁹⁸ Transcript of Mr Findlay McRae, 3 February 2020, 12942, TRN.2020.02.03.01.

⁵⁷⁹⁹ Transcript of Mr Findlay McRae, 3 February 2020, 12942, TRN.2020.02.03.01.

⁵⁸⁰⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 49 – 50 [7.45], VPL.0014.0089.0003 @.0051 - .0052.

⁵⁸⁰¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 49 – 50 [7.45], VPL.0014.0089.0003 @.0051 - .0052.

⁵⁸⁰² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 50 [7.46],

VPL.0014.0089.0003 @.0050; Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 13 [55], VPL.0014.0112.0001 @.0013.

'examples'.⁵⁸⁰³ Ms Judd said that this was the first instance of Victoria Police providing the OPP information about any person, other than Mr Mokbel, in respect of whom a duty of disclosure might arise in relation to Ms Gobbo's activities as an informer.⁵⁸⁰⁴ Mr McRae said that there had been discussion of 'Mokbel and associates' from the beginning, but this was the first notification in a formal sense.⁵⁸⁰⁵

4643. What had been sent was simply a list of names, not any substantial information. Mr McRae and Mr Leane intended to provide the five case studies to the DPP during that meeting.⁵⁸⁰⁶ However, according to Mr McRae's statement, the DPP declined to accept them, and said that he wanted to consider the matter further.⁵⁸⁰⁷ It is submitted that Mr McRae's assertion that he tried to press them into the hands of the DPP appears to be at odds with paragraph 7.37 of his statement, in which he said that if the DPP had required access to the case studies he would not have received them without the order of a court following 'lengthy PII arguments'. Mr Leane who was present at the meeting gave evidence that the word 'refusal' was stronger than he thought applicable to the circumstance, although he did believe that Mr McRae offered a case study, and Mr Champion gestured with his hand in a manner suggesting that he was being thoughtful before accepting, and the offer was not pushed.⁵⁸⁰⁸
4644. Mr McRae made two files notes of the meeting: a handwritten one⁵⁸⁰⁹ and one that he subsequently dictated and had typed up.⁵⁸¹⁰ In Mr McRae's file note of the meeting, under the heading 'other matters discussed', he noted that 'there is no evidence of a deliberate attempt to pervert the course of justice or orchestrate court outcomes.'⁵⁸¹¹ Additionally, it was noted that there was 'some discussion on the difficulties of a defence practitioner being a source over a period of time of 2005-2009.'⁵⁸¹²
4645. Additionally, it was noted that 'there are many notations in the records that indicate that information that went to defence strategy or what the handlers

⁵⁸⁰³ Exhibit RC1133 Email from Findlay McRae to Bruce Gardner, 21 November 2014 and Bruce Gardner, reply from Findlay McRae dated 24 November 2014, with attachment, VPL.0005.0003.2563, VPL.0005.0003.2565.

⁵⁸⁰⁴ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 9 [59], RCMP1.0104.0001.0001 @.0009.

⁵⁸⁰⁵ Transcript of Mr Findlay McRae, 3 February 2020, 12947, TRN.2020.02.03.01.

⁵⁸⁰⁶ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 13 [55], VPL.0014.0112.0001 @.0013; Transcript of Mr Findlay McRae, 5 February 2020, 13244, TRN.2020.02.05.01.

⁵⁸⁰⁷ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 13 [55], VPL.0014.0112.0001 @.0013.

⁵⁸⁰⁸ Transcript of Assistant Commissioner Stephen Leane, 18 February 2020, 14286, TRN.2020.02.18.01.

⁵⁸⁰⁹ Exhibit RC1134 File note of Mr Findlay McRae, 25 November 2014, VPL.0005.0003.2559.

⁵⁸¹⁰ Exhibit RC1135 Typed file note of Mr Findlay McRae, 25 November 2014, VPL.0100.0001.0916.

⁵⁸¹¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 50 – 51 [7.46], VPL.0014.0083.0003 @.0052 - .0054; Exhibit RC1135 Typed file note of Mr Findlay McRae, 25 November 2014, VPL.0100.0001.0916.

⁵⁸¹² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 50 – 51 [7.46], VPL.0014.0083.0003 @.0052 - .0054; Exhibit RC1135 Typed file note of Mr Findlay McRae, 25 November 2014, VPL.0100.0001.0916.

consider to be legally professionally privileged information was quarantined from the relevant informants.⁵⁸¹³

4646. Options canvassed were 'consult with the Commonwealth OPP on the matter of Karam'; 'consider whether to engage a retired High Court judge'; and 'Victoria Police analysis will cease at this point'. Next steps were that the DPP would consider the issue.⁵⁸¹⁴

4647. Mr McRae also made the following note:⁵⁸¹⁵

It appears that Jim O'Brien was privy to some information although there is no record of him passing that information on to informants or prosecutors.

4648. Mr McRae agreed that this was not confined to 'privilege' information, it was information in general and included information provided by Ms Gobbo against her clients.⁵⁸¹⁶ However, it is clear from the Legal Conflict Report regarding Messrs Milad Mokbel, Agrum and Barbaro that it was known that information was being provided to investigators.⁵⁸¹⁷

Intelligence that was assessed as relevant to Operation POSSE was passed to the Officer in Charge of Taskforce PURANA, Detective Inspector Jim O'BRIEN (hereinafter referred to as Del. Inspector O'BRIEN) and later, Detective Senior Sergeant Dale FLYNN (hereinafter referred to as Det. Sen. Sgt. FLYNN)

4649. However, Mr McRae said that that would have been something he had been told at the meeting.⁵⁸¹⁸

4650. Mr McRae said that the case studies were not in a proper form for disclosure but he considered that he might have handed them over for 'perusal' by the DPP.⁵⁸¹⁹

4651. Mr Gardner's file note of the meeting included:⁵⁸²⁰

Fin [McRae]

Neil Comrie Review of the Source Development Unit.

Found five case studies with legal conflict (lawyer vs client).

⁵⁸¹³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 50 – 51 [7.46], VPL.0014.0083.0003 @.0052 - .0054; Exhibit RC1135 Typed file note of Mr Findlay McRae, 25 November 2014, VPL.0100.0001.0916.

⁵⁸¹⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 50 – 51 [7.46], VPL.0014.0083.0003 @.0052 - .0054; Exhibit RC1135 Typed file note of Mr Findlay McRae, 25 November 2014, VPL.0100.0001.0916.

⁵⁸¹⁵ Exhibit RC1135 Typed file note of Mr Findlay McRae, 25 November 2014, VPL.0100.0001.0916.

⁵⁸¹⁶ Transcript of Mr Findlay McRae, 3 February 2020, 12949, TRN.2020.02.03.01.

⁵⁸¹⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12950, TRN.2020.02.03.01; Exhibit RC1128 Issue Cover Sheet and Conflict Report concerning Ms Nicola Gobbo reading Milad Mokbel, Mr Agrum and Domenic Barbaro briefs, 19 September 2014, VGSO.2000.1501.0217.

⁵⁸¹⁸ Transcript of Mr Findlay McRae, 3 February 2020, 12950, TRN.2020.02.03.01.

⁵⁸¹⁹ Transcript of Mr Findlay McRae, 3 February 2020, 12951, TRN.2020.02.03.01.

⁵⁸²⁰ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 9 [61], RCMP.0104.0001.0001 @.0009; Exhibit RC1136 Mr Bruce Gardner's handwritten notes of meeting 25 November 2014, 158, RCMP.0104.0001.0001 @.0158.

Then Operation Lorikate [sic - Loricated] to identify all data re her, in order, to follow up.

Most was old.

4652. Mr Gardner's file note also stated 'Operation Bendigo...team of police – checked material. Looked at 5 cases from Comrie Report. 3 weeks ago – finished.'

4653. Mr Gardner's file note of the meeting included the following:⁵⁸²¹

Police think; no deliberate attempt to pervert the course of justice or affect outcomes - if had happened [ie, attempt to pervert the course of justice or affect outcomes], would need collusion with prosecutors; didn't.

4654. Mr McRae agreed that, given Mr Gardner's notes, it was most likely that they were not talking about the case of Mr Cooper.⁵⁸²²

4655. Mr Gardner recalled that the reference to 'didn't' referred to the fact that Victoria Police did not inform prosecutors that Ms Gobbo was an informer, when those activities may have impacted on a prosecution conducted by the DPP.⁵⁸²³

4656. Ms Judd said:⁵⁸²⁴

Mr Gardner recalls that was a reference to the five 'Operation Bendigo Case Studies' which had been completed in August and September 2014. Those full Case Studies were not provided to the DPP at the 25 November meeting. Three of the five full Case Study Reports were provided to the DPP in October and November 2016, being approximately four months after the commencement of the civil litigation between the DPP and the Chief Commissioner of Victoria Police relating to disclosure.

4657. However, the DPP also noted that, at the time of the 25 November 2014 meeting:⁵⁸²⁵

(a) Mr Gardner had not seen, and did not think the OPP had a copy of, the report of the Comrie Review;

(b) Mr Gardner had no knowledge that Ms Gobbo had been a registered informer at any time before 2005. When Mr McRae stated that the data was 'old', he was not sure what time period Mr McRae was referring to.

⁵⁸²¹ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 10 [68], RCMP1.0104.0001.0001 @.0010.

⁵⁸²² Transcript of Mr Findlay McRae, 3 February 2020, 12953- 12954, TRN.2020.02.03.01.

⁵⁸²³ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 10 [69], RCMP1.0104.0001.0001 @.0010.

⁵⁸²⁴ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 9 [69], RCMP1.0104.0001.0001 @.0009.

⁵⁸²⁵ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 10 [64], RCMP1.0104.0001.0001 @.0010.

4658. This is reflected in Mr Gardner's file note, which stated 'she had been a registered source 2005-2009'.⁵⁸²⁶
4659. Mr McRae agreed that his view was that although Victoria Police would most likely seek not to disclose that information, a court would order its disclosure.⁵⁸²⁷

December 2014 –DPP decides there is no present duty of disclosure due to incomplete information about Gobbo's conduct

4660. On 9 December 2014, the Director's Committee of the DPP convened, attended by Mr Champion, Mr Silbert and Mr Craig Hyland.⁵⁸²⁸ The purpose of the meeting was to discuss the implications of the 25 November meeting and how to respond to an email sent by Mr McRae to Mr Gardner asking about the next steps for the case studies.
4661. On 11 December 2014, Mr McRae received an email from Mr Gardner, in relation to the case studies.⁵⁸²⁹ In that email, Mr Gardner said:

This matter was discussed earlier this week by the Director's Committee. In brief, the Director believes that at present the PPS has no duty of disclosure to the defence in any of the 5 "case studies" you sent us, largely as a consequence of the uncertainty about the nature, extent or timing of X's behaviour in those matters.

We don't yet have sufficient information to invoke the processes in our Miscarriage of Justice Policy.

That position may change depending on the outcome of the IBAC investigation and whatever findings or recommendations it may make.

For the same reasons, the Director sees no purpose in us undertaking a review of files in issue at this stage - it is almost certain that nothing of relevance would exist on the prosecution file.

4662. Ms Judd said that the reference to the five 'case studies' was a reference to the five examples provided by Mr McRae to Mr Gardner on 24 November, which Mr McRae had referred to as 'case studies'. It was not a reference to the five detailed Operation Bendigo Case Study Reports which were not provided to the DPP until October and November 2016.⁵⁸³⁰
4663. On 15 December 2014, Mr McRae circulated an Issue Cover Sheet to the Operation Bendigo Steering Committee.⁵⁸³¹ Mr McRae said that the purpose of the Issue Cover Sheet was to inform the Steering Committee on the progress of the case studies relating to Ms Gobbo for potential disclosure to

⁵⁸²⁶ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 10 [64], RCMP1.0104.0001.0001 @.0010.

⁵⁸²⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12956, TRN.2020.02.03.01.

⁵⁸²⁸ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 11 [77], RCMP1.0104.0001.0001 @.0011.

⁵⁸²⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 51 – 52 [7.48], VPL.0014.0089.0003 @.0053 - .0054; Exhibit RC1137 Email from Bruce Gardner to Findlay McRae, 11 December 2014, 17, VPL.0100.0001.0848 @.0864.

⁵⁸³⁰ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 11 [79], RCMP1.0104.0001.0001 @.0011.

⁵⁸³¹ Exhibit RC1138 Issue Cover Sheet Issue: Bendigo Steering Committee, signed by Mr Findlay McRae, 15 December 2014, 7, VPL.0100.0001.0848 @.0854.

the DPP.⁵⁸³² The Issue Cover Sheet summarised Mr McRae's discussion with the DPP on 25 November 2014, and the email received from Mr Gardner.⁵⁸³³

4664. Under the heading 'Other matters discussed' were the following points:⁵⁸³⁴

Investigation team reported there is no evidence of a deliberate attempt to pervert the course of justice or orchestrate court outcomes

There are many notations in the records that indicate that information that went to defence strategy (or what handlers consider to be legally professionally privileged information) was quarantined from the relevant informants

It appears that Jim O'Brien was privy to some information although there is no record of him passing that information on to informants or prosecutors.

4665. On 18 December 2014, an Operation Bendigo Steering Committee meeting was held.⁵⁸³⁵ It is apparent that during this meeting there was a general discussion addressing the response of the DPP to the briefing provided by Mr McRae and Mr Leane. Mr McRae noted that there was agreement that engaging a 'senior independent person' should not occur given the feedback provided by the Director.⁵⁸³⁶

January – February 2015 – Leane and McRae Meet with CDPP who Take No Action

4666. On 21 January 2015, Mr Leane and Mr McRae attended a meeting with Mr Kirne and Ms Jennifer Bryant of the CDPP.⁵⁸³⁷ Mr McRae made a file note of that meeting, which included the following:

1. *Comrie Review – Case studies – Management of Client Privilege issues raised*
 - *Background provided.*
2. *Operation Loricated – Thematic approach – Court outcomes*
 - *Background provided. No miscarriage issues identified.*
3. *Position of the State DPP*
 - *Noted. Commonwealth DPP may discuss with the State DPP at meeting tomorrow*
4. *IBAC Own Motion Review Announced*

⁵⁸³² Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 52 [7.50], VPL.0014.0089.0001 @.0054.

⁵⁸³³ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 52 [7.50], VPL.0014.0089.0001 @.0054; Exhibit RC1138 Issue Cover Sheet Issue: Bendigo Steering Committee, signed by Mr Findlay McRae, 15 December 2014, 7, VPL.0100.0001.0848 @.0854.

⁵⁸³⁴ Exhibit RC1138 Issue Cover Sheet Issue: Bendigo Steering Committee, signed by Mr Findlay McRae, 15 December 2014, 7, VPL.0100.0001.0848 @.0854.

⁵⁸³⁵ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 52 [7.51], VPL.0014.0089.0001 @.0054.

⁵⁸³⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 52 [7.51], VPL.0014.0089.0001 @.0054.

⁵⁸³⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 53 [7.52], VPL.0014.0089.0001 @.0055; Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 13 [57], VPL.0014.0112.0001 @.0013

- *Awaiting Outcome*
- 5. *Karam Case Study (DPP v Karam and ors [2013] VSC 133)*
 - *Indication that the Commonwealth DPP does not hold concerns at this stage. This matter is on appeal.*
- 6. *Legal Services Commissioner*
 - *Proposed meeting noted*
 -
 - *OUTCOME*
 -
- 1. *Commonwealth DPP to consider whether further information required...*
- 2. *Names of informants to be provided to VicPol for follow up if required.*

4667. It is submitted that the evidence demonstrates that effectively no action was taken by the CDPP as a result of that meeting.⁵⁸³⁸

4668. On 3 February 2015, Mr Leane and Mr McRae attended another meeting with the CDPP in relation to the investigation and prosecution of charges against Mr Rob Karam.⁵⁸³⁹ The CDPP informed Mr McRae that it had no concerns regarding the investigation and prosecution of those offences.⁵⁸⁴⁰

4669. On 6 February 2015, a Bendigo Steering Committee meeting occurred, during which the case studies were discussed.⁵⁸⁴¹ Mr McRae recorded minutes, which indicated that he updated the Steering Committee on the five case studies and informed the Steering Committee that the DPP and CDPP were 'both comfortable'.⁵⁸⁴² The minutes also note that the Bendigo Steering Committee was considering closing the issue but would wait, pending review of the IBAC report, which was due on the same day.

21 May 2014 - Kellam Inquiry Commences

Inquiry into Use of Ms Gobbo as a Human Source; Bendigo Case Studies Not Accepted by IBAC

4670. On 21 May 2014, IBAC commenced a preliminary inquiry led by the Honourable Murray Kellam AO, QC.⁵⁸⁴³

⁵⁸³⁸ Transcript of Mr Findlay McRae, 3 February 2020, 12963, TRN.2020.02.03.01.

⁵⁸³⁹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 54 - 55 [7.54], VPL.0014.0089.0001 @.0056 - .0057.

⁵⁸⁴⁰ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 54 - 55 [7.54], VPL.0014.0089.0001 @.0056 - .0057.

⁵⁸⁴¹ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 55 [7.56], VPL.0014.0089.0001 @.0057.

⁵⁸⁴² Exhibit RC1809 Bendigo Steering Committee Minutes, 6 February 2015, 225, VPL.0100.0001.1355 @.1579.

⁵⁸⁴³ Exhibit RC0113 Kellam Report with redactions as released by Supreme Court, 4, COR.1000.0003.0039 @.0042.

4671. The preliminary inquiry examined the conduct of Victoria Police officers in their use of Ms Gobbo as a human source, and the application and adequacy of its policies, control measures and management practices.⁵⁸⁴⁴
4672. On 1 July 2014 Mr Kellam commenced an investigation in relation to the conduct of current and former members of Victoria Police identified in pages 14 to 17 of the Comrie Review (being conduct between the period 16 September 2005 to 12 January 2009).⁵⁸⁴⁵
4673. On 12 November 2014, Mr McRae was called to give evidence before IBAC. The summons, which had been served on 27 October 2014, required him to produce certain documents prior to giving evidence.
4674. As part of this, Mr McRae states he attempted to produce the Operation Bendigo Investigation Group Case Studies. However, these were not accepted by IBAC. Mr McRae brought the case studies to his examination, and offered the case studies to Mr Kellam, but Mr Kellam declined to accept them.⁵⁸⁴⁶
4675. Mr McRae said that he was concerned that there had been no independent consideration of whether it was necessary to make disclosure.⁵⁸⁴⁷ He said that he had formed the view that an appropriate independent authority needed to review the case studies in order to determine whether there were issues within them that required disclosure. However, Mr McRae said that his preferred method for examining the extent to which disclosure was required (in camera hearings at IBAC) was not possible.⁵⁸⁴⁸

6 February 2015 - Kellam Report Completed

DPP Conduct Review of Cases Arising out of Kellam Report; Case Studies Not Passed on to DPP

4676. On 6 February 2015, Mr Kellam completed his report concerning Victoria Police's handling of Human source code name 3838 (Kellam Report).
4677. The report identified nine individuals who received or possibly received legal assistance from Ms Gobbo while she was informing on them to Victoria Police and who were convicted of serious criminal offences – Tony Mokbel, Rabie Karam, Mr Agrum, Horthy Mokbel, Milad Mokbel, Mr Ketch, Mr Bickley, Zahroula Mokbel and Mr Cooper.⁵⁸⁴⁹
4678. The report made 16 recommendations and endorsed the 27 recommendations made in the Comrie Review.

⁵⁸⁴⁴ Exhibit RC0113 Kellam Report with redactions as released by Supreme Court, 4, COR.1000.0003.0039 @.0042.

⁵⁸⁴⁵ Exhibit RC0113 Kellam Report with redactions as released by Supreme Court, 4, COR.1000.0003.0039 @.0042.

⁵⁸⁴⁶ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 49 [7.43], VPL.0014.0089.0003 @.0051.

⁵⁸⁴⁷ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 51 [7.47], VPL.0014.0089.0003 @.0053.

⁵⁸⁴⁸ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 51 [7.47], VPL.0014.0089.0003 @.0053.

⁵⁸⁴⁹ This list is similar to the case studies looked at in Operation Bendigo, save for deletion of Domenic Barbaro and addition of Horthy Mokbel, Mr Ketch and Mr Bickley.

4679. As the report was confidential and highly protected it was not tabled in Parliament.
4680. On 10 February 2015, Mr Cartwright, who was then Acting Chief Commissioner, Mr Leane, Mr McRae and Mr Galliot briefed the Police Minister on the Victoria Police response to the Kellam Report.⁵⁸⁵⁰ Mr Leane said that his recollection of the meeting was that Mr Cartwright made full disclosure of all matters leading up to and contained in the Kellam Report.⁵⁸⁵¹
4681. At a press conference that day, Mr Cartwright said words to the effect that the OPP had already advised police it had reviewed the relevant prosecutions involving the un-named witness examined by IBAC and had informed Victoria Police that it found no problems with the prosecutions.⁵⁸⁵² Ms Judd said that statement was incorrect as Victoria Police had not provided the DPP with the documents necessary to conduct a review of the relevant prosecutions involving Ms Gobbo.⁵⁸⁵³
4682. On 21 May 2015, Mr McRae and Mr Patton met with the DPP and Mr Gardner.⁵⁸⁵⁴ The file note that Mr McRae took of the meeting indicates that the DPP told him that the CDPP had completed its review of the Karam case, finding no miscarriage of justice. It was also noted that the CDPP had informed Victoria Police that no Victoria Police documents were required for the Commonwealth review. At that time, the DPP was conducting its own review (the Champion Report outlined below), and at that stage there was no indication that there was a miscarriage of justice. The DPP was of the view that it was not necessary for Victoria Police to undertake further work for the DPP.⁵⁸⁵⁵
4683. Mr McRae said that he recalled the DPP had been conducting a review of all the cases arising out the Kellam Report.⁵⁸⁵⁶ He did not make an attempt to pass on the case studies again.⁵⁸⁵⁷

2016 - Champion Report

DPP Review Materials Raised by Kellam Report and Identifies a Prosecutorial Duty to Make Disclosures

4684. As a result of recommendation 12 of the Kellam Report, which obliged the DPP to consider whether, as a result of the activities of Ms Gobbo and Victoria Police,⁵⁸⁵⁸ there were miscarriages of justice in respect of the

⁵⁸⁵⁰ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 14 [60], VPL.0014.0112.0001 @.0014.

⁵⁸⁵¹ Exhibit RC1276 Statement of Assistant Commissioner Stephen Leane, 3 December 2019, 14 [60], VPL.0014.0112.0001 @.0014.

⁵⁸⁵² RC1302 Email from Richard Baker to Lisa Walker, 10 February 2015, 189, RCMP.0104.0001.0001 @.0189.

⁵⁸⁵³ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 12 [86], RCMP.0104.0001.0001 @.0012.

⁵⁸⁵⁴ Exhibit RC1067 Statement of Mr Findlay McRae, 13 November 2019, 55 - 56 [8.5], VPL.0014.0089.0003 @.0057 - .0059.

⁵⁸⁵⁵ Exhibit RC1158 File note on Kellam Report Progression and status report, 21 May 2015, VPL.0005.0003.2612.

⁵⁸⁵⁶ Transcript of Mr Findlay McRae, 3 February 2020, 12966, TRN.2020.02.03.01.

⁵⁸⁵⁷ Transcript of Mr Findlay McRae, 3 February 2020, 12966, TRN.2020.02.03.01.

⁵⁸⁵⁸ Exhibit RC0113, Kellam Report with redactions as released by Supreme Court, COR.1000.0003.0039.

relevant individuals, a review of the matters raised in that Report was undertaken by the DPP.

4685. The DPP produced a confidential report in 2016, which had enquired into the matters raised in the Kellam Report and into the materials held by the OPP. Mr Champion noted that he was unable to conclude that miscarriages of justice had occurred in the criminal proceedings relating to the 'case study' individuals discussed in the Kellam Report. He further noted that his examination was limited as he did not have knowledge of, or access to, all the necessary evidence and information, which was still likely to be in the possession of Victoria Police.⁵⁸⁵⁹
4686. It concluded that six of the nine individuals named in the Kellam Report had entered into, or potentially entered into, a lawyer-client relationship with Ms Gobbo. These individuals were Messrs Tony Mokbel, Mr Agrum, Milad Mokbel, Mr Ketch, Mr Bickley and Mr Cooper. The DPP concluded neither Horty or Zahroula Mokbel were in a lawyer-client relationship (based on materials the DPP had). Rob Karam's case was beyond the scope of the DPP's review as he was prosecuted for federal offences by the CDPP.
4687. The DPP found that the circumstances surrounding the convictions of the six individuals activated the prosecutorial duty to make disclosures about Ms Gobbo's conduct, because it may have tainted their convictions. The DPP also observed that the CDPP would need to be informed about the circumstances to the extent they affected federal prosecutions.
4688. The DPP determined that in accordance with his prosecutorial duty of disclosure he was compelled to inform seven individuals (the above six as well as Mr Cvetanovski, a case in which the DPP had had personal involvement) of some of the information of which he had become aware. As is dealt with in the following chapter, Victoria Police and Ms Gobbo commenced proceedings seeking to prevent this disclosure.

⁵⁸⁵⁹ Exhibit RC1826 Exhibit JRC-3 (Champion Report) to the Confidential Affidavit of John Ross Champion , 2 August 2016 annexing Report of the Director of Public Prosecutions in relation to Recommendation 12 of the Kellam Report, 1, COR.1000.0001.0139.

CHAPTER 22 – 2016 TO 2018 – COURT PROCEEDINGS

DPP Seeks to Disclose Ms Gobbo's identity to Seven Individuals

4689. Beginning in 2016, and carrying through until 2018, Victoria Police and Ms Gobbo engaged in extensive litigation to prevent the DPP from disclosing Ms Gobbo's identity.
4690. Following the review undertaken as part of the Champion Report, Mr Champion had formed the view that his prosecutorial duty of disclosure compelled him to inform seven individuals of certain information.⁵⁸⁶⁰
4691. The proceedings were instigated by correspondence sent by the DPP to the Chief Commissioner of Police, which included copies of the letters the DPP intended to send to seven individuals, informing them that Ms Gobbo had provided information about them to Victoria Police. The 'seven individuals' included the six named in the Champion Report, plus Mr Cvetanovski who had been subsequently identified as an individual to whom disclosure should also be made.⁵⁸⁶¹
4692. Victoria Police had undertaken an assessment of the risk to Ms Gobbo's safety if the DPP were to disclose that information.⁵⁸⁶²
4693. On 10 June 2016, the Chief Commissioner instituted proceedings, seeking to restrain those disclosures on the basis that the disclosure of Ms Gobbo's identity was subject to public interest immunity as it would put her and her children at extreme risk of death or other harm and deter future informers from giving confidential assistance to police. Ms Gobbo was subsequently joined as a plaintiff. Ms Gobbo instituted a separate proceeding seeking similar relief on the basis of an equitable obligation of confidence.⁵⁸⁶³

Supreme Court Proceedings

Non-Disclosure of Prior Registration

4694. The matter was heard before Justice Ginnane between November 2016 and March 2017. The proceedings were held in closed court without notice to the seven individuals. Publication of the proceedings was suppressed.⁵⁸⁶⁴ The interests of the seven individuals were represented by amicus curiae.
4695. In his evidence to the Commission, Assistant Commissioner Neil Paterson (on behalf of Victoria Police) stated that Victoria Police 'were aware [that] all practitioners involved in' the *AB v CD* litigation were aware of the 1999 registration.⁵⁸⁶⁵ He said that the practitioners were aware of this earlier

⁵⁸⁶⁰ *AB v CD; EF v CD* [2018] HCA 58, [1].

⁵⁸⁶¹ *AB v CD; EF v CD* [2018] HCA 58, [1].

⁵⁸⁶² *AB v CD; EF v CD* [2018] HCA 58, [2].

⁵⁸⁶³ *AB & EF v CD* [2017] VSC 351.

⁵⁸⁶⁴ *AB v CD; EF v CD* [2018] HCA 58, [3].

⁵⁸⁶⁵ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 298, TRN.2019.03.27.01.

registration as the Kellam Report contained a reference to Ms Gobbo being registered in 1999.⁵⁸⁶⁶

4696. However, there is no reference in the Kellam Report to the 1999 registration. The Kellam Report states:⁵⁸⁶⁷

In short compass, the factual background to the subject of my investigation is as follows: (i) On 16 September 2005 the Source was a well-known barrister specialising in criminal law and acting for a number of high profile clients involved in criminal proceedings and criminal activities. (ii) On that date, the Source offered to act as an informer to VicPol in relation to certain clients, and generally, and was thereafter handled by members of the Source Development Unit (SDU) ...

4697. The Kellam Report included an Annexure B, which was entitled ‘Specific records which informed the course of the inquiry’ and this referred to an ‘Informer registration application – 13 May 1999’.⁵⁸⁶⁸ However, it does not state that this application was related to Ms Gobbo or annex the document itself.⁵⁸⁶⁹

4698. Mr Paterson’s evidence that there was an awareness of the 1999 registration by the DPP during the *AB v CD* litigation is also inconsistent with other evidence Mr Paterson gave to the Commission, where he said that the OPP was ‘first notified of [Ms Gobbo’s] earlier involvement’ as a human source by way of ‘a letter that has gone from Victoria Police to the OPP’ sometime in 2019.⁵⁸⁷⁰

4699. In an affidavit dated 9 June 2016, tendered in the litigation, Mr Fontana made the following statement:⁵⁸⁷¹

The human source code-named 3838 is Nicola Gobbo (3838). From about September 2005 until January 2009, 3838 was a criminal barrister practicing in Victoria and a registered police informer.

4700. Mr Fontana’s affidavit does not make any reference to Ms Gobbo’s earlier registration.

4701. Additionally, the Chief Commissioner made objections to evidence that predated Ms Gobbo’s registration in September 2005, on the basis that Ms Gobbo was not registered as a human source until September 2005, so that evidence would be ‘irrelevant’ to the proceeding.

⁵⁸⁶⁶ Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 306, TRN.2019.03.27.01.

⁵⁸⁶⁷ Exhibit RC0113 Kellam Report with redactions as released by Supreme Court, 5, COR.1000.0003.0039 @.0005.

⁵⁸⁶⁸ Exhibit RC0113 Kellam Report with redactions as released by Supreme Court, 3., COR.1000.0003.0039 @.0003.

⁵⁸⁶⁹ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 14, [96], RCMP1.0104.0001.0001 @.0014.

⁵⁸⁷⁰ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 16, [110], RCMP1.0104.0001.0001 @.0016; Transcript of Assistant Commissioner Neil Paterson, 27 March 2019, 299, TRN.2019.03.27.01.

⁵⁸⁷¹ Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 1, 9 June 2016, 6 [20], VPL.0008.0001.0001 @.0006.

4702. In an affidavit sworn 11 November 2016, Detective Inspector Monique Swain deposed as follows:⁵⁸⁷²

I am further informed by Detective Superintendent Brigham that appendix L, titled "Operation Assessment into the Mokbel Criminal Cartel", has not been produced in the current proceeding and is subject to public interest immunity. The Chief Commissioner objects to appendix L being produced because it reveals confidential police methodology and is irrelevant to the current proceeding as it was prepared in April 2005 ahead of 3838 being registered as a police informer on 16 September 2005.

4703. It is submitted that the information Victoria Police provided to the Court led Justice Ginnane to make a finding of fact, under the heading "How EF became an informer"⁵⁸⁷³ that Ms Gobbo was registered on 16 September 2005, having already recorded that:⁵⁸⁷⁴

'In 2005, Victoria Police registered a practising criminal barrister, referred to in this proceeding as "EF", as a police informer. Information gathered from her was used to investigate and prosecute crimes. She ceased to act in that role in about January 2009.'

4704. Those conclusions appear to be based on an understanding that this was when Ms Gobbo was first registered as a human source. That was to the knowledge of Victoria Police, not the case. She had, whilst practising as a criminal barrister, been registered as an 'informer' in 1999.

Finding of the Supreme Court

4705. Justice Ginnane dismissed the proceeding.⁵⁸⁷⁵ His Honour had held that the proposed disclosures to the seven individuals were not subject to public interest immunity, as the public interest in disclosing the information outweighed the risks to Ms Gobbo. His Honour noted that, although the risks to Ms Gobbo were powerful reasons to restrain disclosure, it was outweighed by the assistance that this information would provide in affording the seven individuals the ability potentially to have their convictions overturned, and, more fundamentally, in maintaining public confidence in the integrity of the criminal justice system.⁵⁸⁷⁶ His Honour dismissed Ms Gobbo's separate proceeding, that had been heard concurrently, in which she sought to prevent the disclosures on the basis that they amounted to a breach of confidence.⁵⁸⁷⁷

Appeals to Court of Appeal and the High Court

4706. The decision of Justice Ginnane was appealed to the Court of Appeal and, subsequently to the High Court.⁵⁸⁷⁸ The Court of Appeal upheld Justice Ginnane's decision. The Chief Commissioner and Ms Gobbo were granted

⁵⁸⁷² Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, 11 November 2016, 8 [27], VPL.0008.0001.0453 @.0460.

⁵⁸⁷³ *AB & EF v CD* [2017] VSC 350, [12] – [16].

⁵⁸⁷⁴ *AB & EF v CD* [2017] VSC 350, [1].

⁵⁸⁷⁵ *AB & EF v CD* [2017] VSC 350; *AB & EF v CD* [2017] VSC 351.

⁵⁸⁷⁶ *AB v CD; EF v CD* [2018] HCA 58, [4].

⁵⁸⁷⁷ *AB & EF v CD* [2017] VSC 351.

⁵⁸⁷⁸ *AB v CD & EF* [2017] VSCA 338.

special leave to appeal to the High Court.⁵⁸⁷⁹ However, that leave was subsequently revoked.⁵⁸⁸⁰

4707. The Chief Commissioner's appeals to the Court of Appeal and High Court were also conducted on the premise that Ms Gobbo was first registered as a human source in 2005.
4708. In the Court of Appeal, the Chief Commissioner did not correct the DPP's counsel when the DPP made this submission:⁵⁸⁸¹

The factual setting is examined in detail in the trial judge's judgment and, with the exception of a dispute touching upon those measures that might be taken in future to protect EF, is not challenged in the grounds of appeal.

Almost all of the following can therefore be taken as common ground. ...

In 2005, while regularly acting for members of what might be conveniently referred to as the Mokbel cartel, EF became a registered police informer.'

4709. The Commission understands that at no stage did the Chief Commissioner, through his legal representatives, make any attempt to correct the record of facts before the High Court so as to make clear to the Court that Ms Gobbo had, in fact, been formally registered prior to 2005. The fact of that earlier registration would have contradicted the Chief Commissioner's submission in that Court that Ms Gobbo had become a registered police informer only because of 'assurances' made to her in 2002 and 2003.

4710. **On the evidence, it is open to the Commissioner to find that in *AB & EF v CD* [2017] VSC 350 proceeding, and the appeals to the Court of Appeal and the High Court of Australia from the decision in that matter, Victoria Police failed to inform the Court of Ms Gobbo's previous registrations as a human source in 1995 and 1999.**

⁵⁸⁷⁹ *AB v CD; EF v CD* [2018] HCA 58, [6].

⁵⁸⁸⁰ *AB v CD; EF v CD* [2018] HCA 58.

⁵⁸⁸¹ Exhibit RC1096 Statement of Ms Kerri Judd, Director of Public Prosecutions, 8 November 2019, 16, [108], RCMP1.0104.0001.0001 @.0016.

CHAPTER 23 – OVERVIEW OF THE CONDUCT OF VICTORIA POLICE

Introduction

4711. The following submissions analyse the factors which led to the relevant conduct by members of Victoria Police and consider why it may have occurred.
4712. The foregoing submissions demonstrate that over a protracted period, there were significant and repeated departures from acceptable conduct in the relationship between Ms Gobbo and Victoria Police, which have already had, and may continue to have, adverse consequences upon the criminal justice process.
4713. In other words, things have gone badly wrong. Because so many members of Victoria Police from the upper ranks to the lower have been involved in those departures, over such a protracted period of time, it is apt to look for reasons why.
4714. Indeed, this is one of the Commission's most critical tasks. The Victorian Government established this Royal Commission to gain an understanding of what happened, as well as any measures needed to address remaining problems, and to provide the community with assurance that the events in question can never happen again.⁵⁸⁸²
4715. To provide that assurance, and to prevent similar conduct in future, one needs to understand why the conduct occurred in the first place. The foregoing submissions point to a range of common themes and issues arising from the conduct of many current and former members of Victoria Police in the events under examination.
4716. This suggests the need to consider the organisational context in which that conduct occurred and the institutional and cultural factors that may have contributed to its occurrence.
4717. In the Royal Commission into the New South Wales Police Service, Justice Wood noted:

To understand police misconduct, and to develop strategies for its minimisation, the causes of wrongdoing need to be seen along a continuum of factors associated with:

- *the integrity, training and personal ethics of the individual officer*
- *the attitudes encountered within the Service*
- *the structure and nature of the work environment*
- *the vision, management and commitment of the Service*

⁵⁸⁸² Victorian Premier, Attorney-General, Minister for Police and Emergency Services, 'Royal Commission into Management of Informants Media Release', 3 December 2018, 1.

- *the historical, socio-political and legal context of policing.*⁵⁸⁸³

4718. It is submitted in the foregoing submissions that similar multiple, complex and interrelated factors were at play, which led to the conduct of Victoria Police members, individually and collectively, in the events under examination by this Commission.

Previous Reviews and Inquiries

4719. A series of reviews and inquiries into aspects of Victoria Police have been conducted over the last two decades. They have pointed to deficiencies in its management of human sources, along with broader issues related to culture and leadership. It is submitted that many of the same issues are reflected in Victoria Police's use of Ms Gobbo as a human source.
4720. Investigations and reviews into Victoria Police's Drug Squad in 1999, 2001, 2003 and 2007⁵⁸⁸⁴ identified a range of issues relating to the management of human sources. These reviews also pointed to relevant officers' 'scant regard' for administrative requirements in pursuit of operational successes,⁵⁸⁸⁵ practices consistent with an 'ends justifies the means' mentality for achieving investigation objectives⁵⁸⁸⁶ and a lack of accountability and supervision that tended to enable non-compliance, misconduct and corruption.⁵⁸⁸⁷
4721. The OPI also conducted a number of other reviews in the mid to late 2000s that examined broader aspects of Victoria Police management, conduct and culture.
4722. In a 2007 report entitled *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct*, the OPI stated that it would continue its efforts to address 'improper and illegal management of informers by police' and 'police actively subverting the legal process to their own end.'⁵⁸⁸⁸ While emphasising that a minority of police officers engage in misconduct and corruption, the OPI also highlighted the need to address aspects of Victoria Police's culture, leadership and an 'ends justify the means' attitude (also known as 'noble cause' corruption) that persisted in some parts of the organisation:⁵⁸⁸⁹

⁵⁸⁸³ *Royal Commission into the New South Wales Police Service* (Final Report), May 1997 vol I, 38.

⁵⁸⁸⁴ Exhibit RC1807 Victoria Police, *Operation Hemi—C3-4/2218/2000 Final Investigation* Report, 11 July 2002, VPL.0005.0067.0272_R1; Exhibit RC0108 Victoria Police, *Review of the Victoria Police Drug Squad*, Report, November 2001, 105–118, Recommendation 59–71, VPL.0005.0050.0001 @.0105-18; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 20–21 [9], VPL.0015.0002.0033 @.0052-3; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 53, 2007, 44, VPL.0015.0002.0066 @.0105.

⁵⁸⁸⁵ Exhibit RC0108 Victoria Police, *Review of the Victoria Police Drug Squad*, Report, November 2001, 21, VPL.0005.0050.0001 @.0021.

⁵⁸⁸⁶ Exhibit RC0108 Victoria Police, *Review of the Victoria Police Drug Squad*, Report, November 2001, 69-70, VPL.0005.0050.0001 @.0069-70.

⁵⁸⁸⁷ Office of Police Integrity, *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct* (Report, February 2007) 90–2; Exhibit RC0008 Statement of Assistant Commissioner Neil Paterson, Annexure 51, May 2003, 20-21, VPL.0015.0002.0033 @.0053-4.

⁵⁸⁸⁸ Office of Police Integrity, *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct* (Report, February 2007), 137.

⁵⁸⁸⁹ Office of Police Integrity, *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct* (Report, February 2007), 3, 74.

Too many within [Victoria Police] see these officers as heroes, breaking rules and abusing their power for a 'noble cause'. There are many amongst police and in society that regard 'noble cause' corruption as a lesser evil, an understandable and entirely subjective grey zone in which we are all permitted to turn a 'blind eye'. What this Report demonstrates is that noble cause corruption is the nursery of entrenched and systemic corruption. If a police force wants to rid itself of corruption, it must attack noble cause corruption. This will be an important focus of the OPI in coming years.⁵⁸⁹⁰

4723. Based on its own examination, along with the findings of numerous previous inquiries into Victoria Police's management and conduct, the OPI found that an attitude towards 'bending the rules' should be 'dealt with through training, effective supervision and discipline.'⁵⁸⁹¹

4724. During the period under consideration in this inquiry, Victoria Police was itself well-aware of the risks and causes of 'noble cause' corruption. The following passage appeared in the *Review & Develop Best Practice Human Source Management Police 2004*, details of which appear in Chapter 3:

Put simply, noble cause corruption is the belief that the ends justifies the means, the noble cause being the putting of criminals behind bars. Participation in noble cause corruption often occurs incrementally, with the handler's moral barriers being broken down in small pieces. It may start with the turning of a blind eye to certain activities by the source in the name of achieving a result, but can ultimately end with a belief by the handler that any type of action is justifiable.⁵⁸⁹²

4725. In 2008, another OPI report entitled *The Victorian Armed Offenders Squad—A Case Study* examined allegations of assault against citizens by members of the then Victoria Police Armed Offenders Squad. The OPI found that, 'rather than upholding the law, these officers took the law into their own hands' and that 'the absence of effective management can create an environment where some police feel justified in acting outside the law in a so-called 'noble cause' to get a 'result'.⁵⁸⁹³

4726. The OPI noted that police loyalty to team members becomes problematic when that loyalty overrides Victoria Police's organisational values or is used to evade external scrutiny or to conceal misconduct.⁵⁸⁹⁴ The OPI found that the team loyalty that had formed within the Armed Offenders Squad:

...was divisive, insular, and exclusionary. Their 'us versus them' mentality reflected an elitist superiority within Victoria Police. Rooted in the notion of the 'noble cause', it is, in reality,

⁵⁸⁹⁰ Office of Police Integrity, *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct* (Report, February 2007), 136.

⁵⁸⁹¹ Office of Police Integrity, *Past Patterns—Future Directions: Victoria Police and the Problem of Corruption and Serious Misconduct* (Report, February 2007), 132.

⁵⁸⁹² Exhibit RC0276 *Review & Develop Best Practice Human Source Management Police 2004*, 16 April 2004, tendered 30 July 2019, 18, VPL.0005.0099.0001 @.0806.

⁵⁸⁹³ Office of Police Integrity, *The Victorian Armed Offenders Squad—A Case Study*, Report, October 2008, 6.

⁵⁸⁹⁴ Office of Police Integrity, *The Victorian Armed Offenders Squad—A Case Study*, Report, October 2008, 14.

*contemptuous of the law and the rights of criminal suspects, and dishonours the majority of Victoria Police [officers].*⁵⁸⁹⁵

4727. The OPI report highlighted the problems that can arise when a police subculture or ‘Force within the Force’ emerges and the individuals within it come to view themselves as distinct from the broader organisation and not subject to the same laws, rules and values.⁵⁸⁹⁶ While by no means always the case, previous inquiries suggest that specialist, covert or ‘elite’ squads within police forces can be particularly exposed to opportunities for misconduct.⁵⁸⁹⁷ Other research and inquiries have noted that the use of human sources and other covert methods are particularly fraught with ethical and other risks, due to factors including the proximity of officers to serious criminals⁵⁸⁹⁸, the covert relationship between officers and human sources⁵⁸⁹⁹, and the fact that such covert methods necessarily involve secretive processes and elements of pretence and deception.⁵⁹⁰⁰
4728. In 2011, Mr John (Jack) Rush QC completed a report titled *Inquiry into the Command, Management and Functions of the Senior Structure of Victoria Police*, which pointed to both the positive and negative cultural characteristics he had observed within Victoria Police. The report noted:

*There are great strengths in the culture and values of Victoria Police – organisational pride, courage, loyalty, resilience, a high commitment to public safety. However there are elements of police culture counterproductive to efficient modern policing. The Inquiry identified a number of negative aspects of police culture – insularity, a resistance to change, a disinclination to accept external review.*⁵⁹⁰¹

4729. These characteristics are not unique to Victoria Police. Numerous inquiries across Australian jurisdictions have identified aspects of police culture including a ‘code of silence’, resistance to external criticism and unwillingness to criticise the actions of fellow police; they have also pointed to the importance of effective leadership, supervision and managerial accountability in preventing improper and unethical conduct.⁵⁹⁰² In police organisations, where hierarchy and traditional command and control structures often have a significant influence, ethical leadership can be

⁵⁸⁹⁵ Office of Police Integrity, *The Victorian Armed Offenders Squad—A Case Study*, Report, October 2008, 14.

⁵⁸⁹⁶ Office of Police Integrity, *The Victorian Armed Offenders Squad—A Case Study*, Report, October 2008, 13.

⁵⁸⁹⁷ See for example, *Royal Commission into the New South Wales Police Service (Final Report)*, May 1997 vol I, 149-151, 153-154; G.E. Fitzgerald, *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (Report, 3 July 1989)* 240.

⁵⁸⁹⁸ G.E. Fitzgerald, *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (Report, 3 July 1989)* 202-203.

⁵⁸⁹⁹ Charl Crous, ‘Human Intelligence Sources: Challenges in Policy Development’ (2009) 5(3) *Security Challenges* 117.

⁵⁹⁰⁰ Standing Committee of Attorney-General and Australasian Police Ministers Council Joint Working Group on National Investigation Powers, *Cross-Border Investigative Powers for Law Enforcement (Report, 2003)* ii–iii.

⁵⁹⁰¹ State Services Authority, *Inquiry into the command, management and functions of the senior structure of Victoria Police*, (Report, November 2011) viii.

⁵⁹⁰² See generally, *Royal Commission into the New South Wales Police Service (Final Report, May 1997)*; G.E. Fitzgerald, *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (Report, 3 July 1989)*; *Royal Commission into Whether There Has Been Corrupt or Criminal Conduct by Any Western Australian Police Officer (Final Report, January 2004)*.

critical in determining the values and ethical orientation of the organisation.⁵⁹⁰³

4730. While many of the above investigations and reviews examined matters that are broader than Victoria Police's use and management of human sources, they nonetheless point to enduring cultural and organisational issues that very likely caused or contributed to some of the events under inquiry by this Commission. The Comrie Review and Kellam Report, discussed below, demonstrate how these enduring issues were at play with respect to the management of Ms Gobbo as a human source by Victoria Police.

The Comrie Review

4731. Commissioned by Victoria Police to examine the use of Ms Gobbo as a human source, in July 2012, former Chief Commissioner Neil Comrie produced his report entitled *Victoria Police Human Source 3838: A Case Review* (the Comrie Review).⁵⁹⁰⁴
4732. Among other things, the Comrie Review concluded that:
- 4732.1. risk assessment processes used by the SDU for Ms Gobbo were 'grossly inadequate'⁵⁹⁰⁵
 - 4732.2. control measures were not entirely complied with⁵⁹⁰⁶
 - 4732.3. authorisation processes to engage a human source lacked rigour⁵⁹⁰⁷
 - 4732.4. there were inconsistencies and quality issues in record-keeping and reporting processes that should have, but did not, result in challenge by management⁵⁹⁰⁸
 - 4732.5. there were 'clear examples of information provided by [Ms Gobbo] being disseminated to other areas with no indication that a risk assessment process [had] first occurred, consistent with managerial instruction.'⁵⁹⁰⁹
4733. Mr Comrie considered that the inadequate utilisation of risk assessment processes and the failure to document significant risks meant that it was:

... open to conjecture whether such actions were a consequence of naivety at the time of initial engagement, or were the consequence of more considered action due to an underlying awareness that the documentation of

⁵⁹⁰³ See generally, Steve McCartney and Rick Parent, *Ethics in Law Enforcement* (2015) 108-111.

⁵⁹⁰⁴ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review* Report, 30 July 2012, VPL.0005.0001.0001.

⁵⁹⁰⁵ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review* Report, 30 July 2012, 26, VPL.0005.0001.0001 @.0026.

⁵⁹⁰⁶ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review* Report, 30 July 2012, 28, VPL.0005.0001.0001 @.0028.

⁵⁹⁰⁷ See, Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review* Report, 30 July 2012, 40-1, VPL.0005.0001.0001 @.0040-.0041.

⁵⁹⁰⁸ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review* Report, 30 July 2012, 46, VPL.0005.0001.0001 @.0046.

⁵⁹⁰⁹ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review* Report, 30 July 2012, 47, VPL.0005.0001.0001 @.0047.

*such matters as inherent risks would, in all probability, derail the sanctioning of usage of [Ms Gobbo] as a police informer.*⁵⁹¹⁰

4734. The Comrie Review found that there was a failure among the SDU handlers to reflect on and document 'readily recognisable risks' relating to Ms Gobbo's professional duties as a lawyer, paving the way for them to rely on their own awareness and moral compass to navigate such issues.⁵⁹¹¹
4735. Upon subsequent identification of the risks of using Ms Gobbo as a human source, there appeared to have been a lack of senior managerial feedback, direction or instruction being provided to the SDU. Mr Comrie noted:

*The apparent absence of any challenge, direction or call for future information from [the] SDU may have given rise to perceptions at the SDU that their 3838 engagement tactics utilised are not only known of, but also condoned by very senior management of Victoria Police.*⁵⁹¹²

4736. The Comrie Review also highlighted concerns about the apparent focus on 'noble outcomes' to justify using Ms Gobbo as a human source.⁵⁹¹³ Upon review of the risk assessments on Ms Gobbo's human source file, Mr Comrie observed that the assessments suggested that not using Ms Gobbo as a human source would equate to 'outcomes that would see crime and illicit drug trade escalating to levels incapable of otherwise being curtailed.'⁵⁹¹⁴ He noted that such a suggestion could:

*...be perceived to imply that the anticipated end results of utilising 3838, despite any recognisable moral and legal barriers or other risks, would serve to justify the means.*⁵⁹¹⁵

The Kellam Report

4737. After conducting hearings with key witnesses, in February 2015, The Hon Murray Kellam on behalf of IBAC, produced a report entitled *Report Concerning Victoria Police Handling of Human Source Code Name 3838* (the Kellam Report).⁵⁹¹⁶
4738. Mr Kellam noted that the review of documentation and the evidence of witnesses examined during his inquiry 'fully' confirmed the serious concerns expressed by Mr Comrie in his review.⁵⁹¹⁷

⁵⁹¹⁰ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review Report*, 30 July 2012, 26-7, VPL.0005.0001.0001 @.0026- .0027.

⁵⁹¹¹ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review Report*, 30 July 2012, 24, VPL.0005.0001.0001 @.0024.

⁵⁹¹² Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review Report*, 30 July 2012, 26, VPL.0005.0001.0001 @.0026.

⁵⁹¹³ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review Report*, 30 July 2012, 22-4, VPL.0005.0001.0001 @.0022- .0024.

⁵⁹¹⁴ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review Report*, 30 July 2012, 23, VPL.0005.0001.0001 @.0023.

⁵⁹¹⁵ Exhibit RC0510 Neil Comrie, *Victoria Police Human Source 3838: A Case Review Report*, 30 July 2012, 23, VPL.0005.0001.0001 @.0023.

⁵⁹¹⁶ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838 Report*, 6 February 2015, COR.1000.0003.0039.

⁵⁹¹⁷ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838 Report*, 6 February 2015, 52, COR.1000.0003.0039.

4739. The Kellam Report highlighted many of the same issues identified by the Comrie Review, including that the handlers lacked sufficient oversight in their dealings with Ms Gobbo,⁵⁹¹⁸ that there was a lack of formal documentation that set out the key risks and boundaries of Victoria Police's relationship with Ms Gobbo,⁵⁹¹⁹ and, as a consequence, officers utilised their own subjective assessments to determine what was ethical and appropriate.⁵⁹²⁰
4740. Consistent with the Comrie Review, the Kellam Report noted that legal advice was not obtained by Victoria Police about the potential issues and risks associated with using Ms Gobbo as a human source. Mr Kellam found that Victoria Police's receipt and utilisation of confidential information for the purpose of furthering police investigations against Ms Gobbo's clients, without having first obtained legal advice, was negligent.⁵⁹²¹
4741. Mr Kellam suggested that the absence of early legal advice and the failure to establish strict parameters around the acquisition and use of information from Ms Gobbo might have resulted from 'wilful blindness' by the SDU and those responsible for its oversight.⁵⁹²² Mr Kellam surmised that, had there been adequate documentation to govern the relationship between Ms Gobbo and Victoria Police and a regular review of the risks involved, the need for appropriate legal advice would likely have become obvious and the risks that materialised would have been significantly reduced, if not eliminated.⁵⁹²³
4742. In his evidence to Mr Kellam, then Deputy Commissioner Graham Ashton explained that Victoria Police Command was under 'considerable pressure' at the time of Ms Gobbo's use as a human source and that:
- there's this human source that comes on-board that could potentially solve a bunch of those murders or prevent others, and there (indistinct) this glittering prize but I think there'd be this sort of overall goal, we need to do this rather - that sometimes diverts you from the necessary sense of steps.*⁵⁹²⁴
4743. Mr Ashton rejected the use of the term 'noble cause' as an explanation for the failures of the SDU.⁵⁹²⁵ He explained to the inquiry that the term 'implies that you are aware of the fact that you are doing something improper.'⁵⁹²⁶

⁵⁹¹⁸ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 86, COR.1000.0003.0039.

⁵⁹¹⁹ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 16, COR.1000.0003.0039.

⁵⁹²⁰ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 16, COR.1000.0003.0039.

⁵⁹²¹ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 64, COR.1000.0003.0039.

⁵⁹²² Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 60, COR.1000.0003.0039.

⁵⁹²³ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 61, COR.1000.0003.0039.

⁵⁹²⁴ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 60, COR.1000.0003.0039.

⁵⁹²⁵ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 60, COR.1000.0003.0039.

⁵⁹²⁶ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 60, COR.1000.0003.0039.

4744. Mr Kellam was unable to conclude why those responsible for managing SDU did not take steps to manage the risks arising from the use of Ms Gobbo as a human source, but considered that, on balance, it was 'highly likely that the prospect of the 'glittering prize' distracted all concerned from the obvious steps that were required to be taken to mitigate the risks.'⁵⁹²⁷
4745. On the evidence available to his inquiry, Mr Kellam could not be satisfied that there was an intent by members of the SDU to pervert the course of justice or that their conduct constituted an offence punishable by imprisonment.⁵⁹²⁸ He did, however, find the activities of SDU members in the use and management of Ms Gobbo to be improper; noting, that some of their conduct 'would, if exposed, be likely to bring the police force into disrepute and to diminish public confidence in it.'⁵⁹²⁹
4746. Mr Kellam considered that this impropriety was 'substantially mitigated by the lack of guidance and supervision that those officers should have had from their superior officers'.⁵⁹³⁰ He concluded that the:

*...conduct by individual police officers resulted not from any personal intention to act with impropriety on their part, but from what I consider to be behaviour constituting negligence of a high order on the part of those responsible for their supervision, guidance, instruction and management in the particular prevailing circumstances of obvious attendant risk.*⁵⁹³¹

Submissions as to Why the Conduct Occurred

Cultural factors

4747. Victoria Police, as a body, is a collection of individuals.⁵⁹³² However as a collection of individuals and structures, Victoria Police does not itself do things, think things, say things or engage in conduct in a literal sense. However, it has been said often enough that an organisation can have a 'culture'. The culture within an organisation appears to be divisible, in the sense that there are many aspects of the culture, or individual cultures within distinct parts of the organisation.
4748. Aspects of Victoria Police 'culture' have been analysed and discussed in several reports over the years, including those set out above. Inevitably, inquiries investigate and report on events where something has gone wrong. As such, it is not surprising that when the focus of such inquiries is on the negative consequences of the conduct of members of Victoria Police, negative cultural descriptors often serve to explain how things might have

⁵⁹²⁷ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 61, COR.1000.0003.0039.

⁵⁹²⁸ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 83, COR.1000.0003.0039. Mr Kellam noted that a full examination of the prosecutions of various clients of Ms Gobbo required to reach such a conclusion was beyond the jurisdiction of IBAC and his inquiry.

⁵⁹²⁹ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 83, COR.1000.0003.0039.

⁵⁹³⁰ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 83, COR.1000.0003.0039.

⁵⁹³¹ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, 83, COR.1000.0003.0039.

⁵⁹³² Sections 6-7 of the Victoria Police Act 2013 (Vic)

gone wrong. There should be no apologies for that, because the significance and size of Victoria Police, and the fundamental importance of its activities to the proper administration of justice, mean that inquiries, such as this inquiry, are necessary.

4749. That is not to say that there are not aspects of Victoria Police's culture that it can be justifiably proud of, and which have made it over many years an organisation that, for the most part, has served the best interests of the citizens of this State.
4750. In this inquiry, the focus has been upon the possible improper and unlawful conduct associated with obtaining information and ultimately evidence, by police investigators and members associated with them. That information and evidence was obtained in order to prosecute people involved, or allegedly involved in, for the most part, very serious crimes. Inextricable from that possible improper and unlawful conduct is the arguably greater impropriety associated with the use of that evidence in the criminal justice process without disclosing to the participants (the accused, the prosecutors, and ultimately the courts) the underlying conduct. That failure to disclose has led or might have led, so the courts have already concluded,⁵⁹³³ to miscarriages of justice. Our submissions assert that many more cases may have miscarried.
4751. Some examples of troubling behaviour which it appears the culture at the time condoned or did not prevent are:
- 4751.1. important decisions being made by some senior officers that were not recorded in minutes – this appears to have been a deliberate decision
 - 4751.2. diaries and other records being manipulated in a manner which may have improperly concealed material which should have been disclosed to the Courts or accused people
 - 4751.3. efforts being made to cover up the use of Ms Gobbo as a human source by not taking notes, or manipulating notes
 - 4751.4. draft statements not being retained.

⁵⁹³³ *Orman v The Queen* [2019] VSCA 163, noting that whilst the Director's concession set out in paragraphs [8] and [9] was based on Ms Gobbo's conduct, members of Victoria Police were aware of, involved in, and did not disclose, the relevant conduct; see also *AB (a pseudonym) v CD (a pseudonym)*; *EF (a pseudonym) v CD (a pseudonym)* [2018] HCA 58 at [10]. In granting the appellant bail pending his appeal, in *Cvetanovski v The Queen* [2020] VSCA 126 the Court of Appeal, whilst not reaching any conclusion, stated:

6 *It is rarely possible on an application for appeal bail for a court to make a meaningful assessment of the prospects of success of the appeal. In the present case, as explained more fully below, the applicant raises very serious issues about the effect on the fairness of his trial of the non-disclosure by the prosecution of the association between Ms Nicola Gobbo and the chief prosecution witness at his trial (Mr Cooper). It is common ground that Ms Gobbo provided legal advice and other support to the witness while at the same time acting as a police informer. The applicant asserts that, during the same period, Ms Gobbo was also giving him legal advice.*

7 *The applicant submits that he has reasonable prospects of success on the conviction appeal. The respondent, for her part, contends that there is no substance in any of the grounds of the appeal. It is sufficient for present purposes to say that we regard the grounds of appeal as reasonably arguable. That suffices to establish a real risk of injustice of the kind to which we have referred. It is not, in any event, possible to form a more definitive view at present, given the complexity and novelty of the issues raised and the scale and nature of the documentation to be examined.*

4752. The improprieties that we have referred to throughout these submissions have come about for a number of reasons, including:
- 4752.1. there were those who had a clear understanding that the conduct was wrong and pressed ahead anyway. Some raised the risks to the integrity of the criminal justice system directly with Ms Gobbo prior to significant troubling events occurring, but nevertheless did not intervene to stop them. An example is the SDU members involved in the face-to-face discussion with Ms Gobbo on 20 April 2006, two days before Mr Cooper's arrest, who raised with Ms Gobbo the risks to the justice system and ethical implications of Ms Gobbo attending upon Mr Cooper's arrest.⁵⁹³⁴ Officer Sandy White told the Commission he had at one point contemplated arresting Ms Gobbo to prevent it, but on the night he allowed his team to participate in the events.⁵⁹³⁵
 - 4752.2. there were also those who, during the use of Ms Gobbo, knew that her ongoing use might cause a Royal Commission but weighed that against the value of the information Ms Gobbo was providing⁵⁹³⁶ – demonstrating clear knowledge of wrongdoing
 - 4752.3. there were those who perceived risks to the integrity to the administration of justice, but were assured that Ms Gobbo's '...use as a human source had been sanctioned and approved at the highest level of Victoria Police'⁵⁹³⁷ and despite being 'not completely comfortable' took comfort from the assurances of their senior officers
 - 4752.4. there were those who raised the need to obtain legal advice,⁵⁹³⁸ those who agreed that advice should be obtained,⁵⁹³⁹ however no legal advice was sought
 - 4752.5. there were those who gave evidence that the risks to the integrity of the administration of justice never occurred to them.⁵⁹⁴⁰

⁵⁹³⁴ Exhibit RC0281 ICR3838 (28), 22 April 2006, 253-4, VPL.2000.0003.1839-40; Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, Green and Sandy White, 20 April 2006, VPL.0005.0111.0001.

⁵⁹³⁵ Transcript of Mr Sandy White, 31 July 2019, 3617, RC_MPI_31Jul19_provisional.

⁵⁹³⁶ Exhibit RC0591 Officer Black diary, 24 July 2006, 144 RCMP.0090.0001.0001 @.3106; See also Exhibit RC1256 Statement of Mr Richard Grant, 28 November 2019, 12, [82]-[87], VPL.0014.0103.0001 @.0012 in which he described his observations regarding Ms Gobbo's role with Mr Cooper and Milad Mokbel and sets out a conversation he had with Officer White concerning the use of Ms Gobbo as follows:

84. Although I have not made any notes in my diary, I have a very vague recollection of a conversation that I think I had with Officer White about Ms Gobbo's presence at St Kilda Road Police Station.

85. Although I cannot be certain of my memory of the words used, my recollection is that I asked Officer Sandy White why Ms Gobbo was present and he replied with words to the effect of, "she is helping us".

86. I did not know what exactly he meant by that. I think I said something like, "you're in dangerous territory — Royal Commission territory"

⁵⁹³⁸ See the analysis of Mr Blayney's evidence of the 17 July 2007 meeting in Chapter 15.

⁵⁹³⁹ See analysis of the conversations between Mr White and Mr O'Brien on 18 July 2007 in Chapter 15.

⁵⁹⁴⁰ See, for example, Exhibit RC0577C Second Statement of Anthony (Tony) Biggin, 25 June 2019, 12 [62], VPL.0014.0041.0008:

With the benefit of hindsight, I accept that the risks associated with Ms Gobbo's profession as a barrister were not at the front of my mind when undertaking this audit

4753. As to those who understood the risks, or turned a blind eye to them, as noted above the impropriety which can be attributed to them is often described as 'noble cause' corruption. Whilst members do not seek to serve themselves through the conduct, but rather seek the 'noble end' of 'putting away' criminals and prevent crime, it may be corruption nonetheless, and the consequences are just as significant.

4754. The Commission has been told that the value of the information Ms Gobbo was willing to provide was the central reason for her being registered as a human source and appeared to override the very real risks of impropriety and risks to Ms Gobbo. The 15 November 2005 Risk Assessment conducted by Mr Smith ⁵⁹⁴¹ recorded the risk to Ms Gobbo of being compromised as 'high'. The risk to compromise of the handlers and controllers was recorded as 'high'. The risk to the integrity of the information Ms Gobbo was providing was recorded as 'high'. The risk of Ms Gobbo's handling coming under 'extreme scrutiny' and resulting 'embarrassment and criticism' for Victoria Police was recorded as 'significant'. However, 'considered and balanced against' this was the value of the information she was providing. It was also recorded that:

Within a short time, the Source has provided credible and valuable intelligence to police. The Source is well positioned to obtain tactically viable intelligence in relation to the criminal activities of the MOKBEL cartel... ⁵⁹⁴²

4755. Several other relevant observations can be made of the above and other evidence the Commission received:

- 4755.1. Ms Gobbo had been wanting to assist the police against clients and employers since early on in her time as a solicitor⁵⁹⁴³
- 4755.2. she continued to do so in the early 2000s, and prior to her third registration as a human source,⁵⁹⁴⁴ and the relevant police members were happy to receive such information informally
- 4755.3. Ms Gobbo paid little regard to her ethical obligations to her clients, which at times was explicit,⁵⁹⁴⁵ but otherwise would have been clear

⁵⁹⁴¹ Exhibit RC0285 Informer Registration, Part C- Risk Assessment relating to Nicola Gobbo 15 and 23 November 2005, VPL.2000.0001.9395.

⁵⁹⁴² Exhibit RC0285 Informer Registration, Part C- Risk Assessment relating to Nicola Gobbo 15 and 23 November 2005, VPL.2000.0001.9395.

⁵⁹⁴³ See previous submissions concerning the period of 1993 to 1999.

⁵⁹⁴⁴ See previous submissions concerning Ms Gobbo's dealings prior to 16 September 2005 with, for example, Ms Strawhorn, Mr De Santo and Mr Bateson.

⁵⁹⁴⁵ For example, Exhibit RC0282 Transcript of meeting between Nicola Gobbo, Peter Smith, and Sandy White, 20 April 2006, VPL.2000.0002.4224 in relation to her and Victoria Police's dealings regarding Mr Cooper: "The general ethics of all of this is fucked." Again, in RC764 Transcript of conversation between Nicola Gobbo, Sandy White, Fox, 3 July 2007, 121-2, VPL.0005.0136.0001 @.0121-2, Ms Gobbo has the following exchange with Mr White:

Officer White: All right. It's really important for all of us that you don't represent anyone.

Ms Gobbo: Mm.

Officer White: I'd hate to think that a conviction could be overturned because there was an allegation or suggestion or a bloody inquiry in relation to whether he got completely unbiased uncompromised defence.

Ms Gobbo: Who's ever going to know about that?

Officer White: Well - - -

Ms Gobbo: And there's already 20 people in that category.

to any police member who knew she was both acting for and informing on individuals

- 4755.4. there were times when her handlers left the issue of legal professional privilege to Ms Gobbo,⁵⁹⁴⁶ times when they specifically attempted to filter out potentially privileged information⁵⁹⁴⁷ and times when clearly privileged information appears to have been disseminated to investigators⁵⁹⁴⁸
- 4755.5. there were occasions when the risks of exposure of the use of Ms Gobbo as a human source were seen as so extreme that she should be put in 'babysitter mode' and not tasked, though information from her would still be welcomed
- 4755.6. whilst the need to obtain legal advice as to the propriety of Victoria Police's relationship with Ms Gobbo was obvious, it was not obtained either through neglect, or fear that the impropriety of the relationship would be exposed
- 4755.7. great lengths were gone to in order to prevent proper disclosure to those whose cases may have been affected by the relationship between Ms Gobbo and Victoria Police. The explanation for non-disclosure was that Ms Gobbo's safety was the 'paramount' consideration
- 4755.8. there was a reluctance to question authority when members held concerns regarding suspected misconduct, despite there being a statutory mechanism by which they were required to do so.⁵⁹⁴⁹

⁵⁹⁴⁶ Exhibit RC0626 Transcript of meeting between Nicola Gobbo, Black, Peter Smith and Sandy White, 28 October 2005, VPL.0005.0051.0336.:

Officer Smith: Yeah. I think I said to you last time if you wish to talk about anything like that we're more than happy to listen, but we're here in your interests as well, so you can.....

Ms Gobbo: I know. But I can say when that stuff gets privileged I'm - I can't.

Officer Smith: Oh, that - that's right, that's fine, I got no problem with that.

Ms Gobbo: And things that are, you know, hearsay upon hearsay, what's nothing, completely - and it's fuckin' hearsay.

Officer Smith: But if - if you're happy - regardless of the privilege issue - - -

Ms Gobbo: Mm

Officer Smith: - - - you can make that call on your own without any assistance from us, no problem.

⁵⁹⁴⁷ See Exhibit RC0281 ICR3838 (100), 14 September 2007, 1219, VPL.2000.0003.2805, Officer Fox recorded a conversation with Ms Gobbo concerning her client, Zaharoula Mokbel:

"She had a conference today with Phil Priest – barrister.

He has worked out a defence strategy for Roula Mokbel on Monday.

It relates to s.336 of the Crimes Act. Marital coercion of a spouse to commit a crime other than murder – treason.

HS reads out the section to me and general discussion on case law as to how it is applied.

The defence will argue that Roula was under coercion of Horty.

Action:

Not disseminated owing to information being defence legal strategy."

⁵⁹⁴⁸ See Exhibit RC0281 ICR3838 (100), 14 September 2007, 1215, VPL.2000.0003.2801, Officer Fox recorded a conversation with Ms Gobbo concerning her client, Zaharoula Mokbel:

"She mentions that the Roula brief is lacking a statement from [REDACTED]. He would well and truly convict Roula for these deceptions.

I will tell Jim Coughlin.

Action:

Verbally disseminated above information to Jim Coughlin – Purana"

⁵⁹⁴⁹ Notably, during the period that Ms Gobbo was registered as a human source, s 86L(2A) of the *Police Regulation Act* provided: *A member of the force must make a complaint to a member of the force of a more senior rank to that member, or to the Director, about the conduct of another member of the force if he or she has reason to believe that the other member is guilty of serious misconduct.* It is readily

4756. In her 16 April 2020 statement to the Commission,⁵⁹⁵⁰ Deputy Commissioner Wendy Steendam identified what she said Victoria Police currently see as the 'complexity and uniqueness' of the situation which existed at the time of Victoria Police's use of Ms Gobbo as a human source. The first factor Ms Steendam identified was:

*the information that Nicola Gobbo was able to give was of a high value in relation to very serious and organised crime, which represented an ongoing threat to community safety*⁵⁹⁵¹

4757. Ms Steendam was asked to clarify whether by this she was seeking to justify Ms Gobbo's use by the seriousness of the criminal conduct in relation to which she was assisting police. Ms Steendam's evidence was that she was not.⁵⁹⁵²

4758. However, it is submitted that it is both obvious and telling that the value of the information Ms Gobbo was able to provide is identified as the primary factor for her use as a human source. When one considers the entirety of the evidence the Commission has received, it appears that the high value of the information Ms Gobbo could and did provide justified, in the views of many members, at all ranks, both the obvious impropriety of using Ms Gobbo as a human source and keeping that fact hidden from the Courts, prosecution agencies and the accused persons to whom it should have been disclosed.

4759. The police force, and in particular those who investigate crime and lay charges against accused persons, are every bit a part of the criminal justice process as the lawyers and the judges. For the process to operate properly, each must act in accordance with the law and the accepted rules that apply, for good reason, to the investigatory and trial processes. In this inquiry, the Commission has seen that two of the participants, the barrister and the police, engaged in, in many cases, collusive behaviour that has potentially had catastrophic consequences to the criminal justice process. The individual and joint conduct of the barrister and police officers have been

apparent that a significant purpose of s 86L(2A) was to ensure that junior officers who observed what they believed to be misconduct of more senior officers, or were invited, required or expected to participate in it, had a method by which they could personally ensure the conduct was sanctioned and/or avoid participating in it. They could do so directly to members more senior than the member about whom they had concerns, or to the OPI, which was established to operate as an independent oversight body. Properly applied and adhered to, a provision such as s 86L(2A) would have a very significant beneficial effect on a culture that otherwise allowed, or turned a blind eye to, misconduct.

⁵⁹⁵⁰ Exhibit RC1529 Statement of Deputy Commissioner Wendy Steendam, 16 April 2020, VPL.0014.0113.0019.

⁵⁹⁵¹ Exhibit RC1529 Statement of Deputy Commissioner Wendy Steendam, 16 April 2020, VPL.0014.0113.0019.

⁵⁹⁵² Ms Steendam was asked to clarify whether by this she was seeking to justify Ms Gobbo's use by the seriousness of the criminal conduct in relation to which she was assisting police. Ms Steendam's evidence was that she was not - Transcript of Deputy Commissioner Wendy Steendam, 7 May 2020, 14922 – 33, TRN.2020.05.07.01:

Mr Woods: And one of the things you identified was, and in fact you just spoke a moment ago about the community safety aspect of it, in your statement you talk about many, many issues but one of them is the information Ms Gobbo was able to give was of a high value in relation to very serious and organised crime which represented an ongoing threat to community safety. I just want to be clear that you're not suggesting there that the ends justify the means in that the value of the information was so significant that the other breaches didn't matter?

Ms Steendam: No, absolutely not.

described by the High Court as corrupting prosecutions and debasing fundamental premises of the criminal justice system by:

- 4759.1. (as to Ms Gobbo) fundamental and appalling breaches of her obligations as counsel to her clients and of her duties to the court
 - 4759.2. (as to Victoria Police) reprehensible conduct and involvement in sanctioning atrocious breaches of members' duties.
4760. Whilst this inquiry is focussed upon a particular example of what might be described as 'noble cause' corruption (at least in relation to those current and former members of Victoria Police who knew or suspected the risks to the integrity of the administration of justice), the root causes are the same as in other manifestations which have been examined in past inquiries. Accordingly, if the underlying causes are not addressed then the same form of corruption in different forms will continue. If so, the criminal justice process and the citizens of this State will continue to pay the high price, in monetary terms and otherwise, associated with ongoing miscarriages of justice. Effective and scrupulous administration of justice will be undermined. So too will the public's confidence in Victoria Police.

4761. On the evidence, it is open to the Commissioner to find that the conduct of current and former members of Victoria Police in their disclosures about and recruitment, handling and management of Nicola Gobbo as a human source came about as a combination of:

- 4761.1. individual potential misconduct of certain senior and junior police officers who knew very well that the conduct was improper but pressed on in pursuit of a 'noble cause'**
- 4761.2. those who suspected that the conduct was improper and failed to investigate, report or act on their suspicions**
- 4761.3. those who erroneously assumed, or were told, that Victoria Police had adequately considered and addressed the risks that the conduct posed to the proper administration of justice and, satisfied as to that, did not take further action**
- 4761.4. those who failed to identify potential misconduct which should have been readily apparent**
- 4761.5. certain members of the highest ranks who were aware of it and encouraged (or condoned) it, and certain members of the lower ranks who were apparently comfortable in the knowledge that their superiors sanctioned it**
- 4761.6. insofar as that conduct can be said to have come about because of, or been influenced by, 'culture', then relevant cultural factors included a view that the end of charging, convicting and gaoling criminals justified the means of securing it, including through what may be grossly improper and unlawful conduct.**

Human Source Management Policy Framework

4762. Victoria Police's policies and processes for the management of human sources and the fulfilment of its disclosure obligations have evolved significantly since the events under examination in these submissions.
4763. During the period of Victoria Police's use of Ms Gobbo's as a human source, there were no specific policies or procedures in place to safeguard against the risks associated with using lawyers or other individuals with obligations of confidentiality or privilege as human sources. This was despite the fact that the relevant United Kingdom policies and procedures, which were consulted in the formulation of the relevant Victoria Police policies and procedures, did address those issues.
4764. Evidence before the Commission indicated that at times police members may have failed to comply with policies and procedures, or to meet appropriate standards of conduct. Examples were the failure to perform regular, formal, written risk assessments, the failure to have Ms Gobbo complete an Acknowledgement of Responsibilities, the failure to complete ICRs in a timely manner, the failure to review completed ICRs in a timely manner, the failure to disseminate information only through IRs and allowing Ms Gobbo's role and true identity to be widely known in parts of Victoria Police.

Lack of Understanding about Privilege, Confidentiality and Conflicts of Interest

4765. The evidence on occasion demonstrated a poor understanding of issues concerning privilege, confidentiality and conflict of interest by those dealing directly with Ms Gobbo. There are examples in ICR100 of a police member passing on information which clearly should not have been,⁵⁹⁵³ and the same police member determining that other information should not be disseminated.⁵⁹⁵⁴ The evidence of one member of the SDU might be understood to mean that he had trouble understanding the conflict Ms Gobbo's dual role put her in.⁵⁹⁵⁵

⁵⁹⁵³ Exhibit RC0281 ICR3838 (100), 13 September 2007, 1215, VPL.2000.0003.2801

⁵⁹⁵⁴ In Exhibit RC0281 ICR3838 (100), 14 September 2007, 1219, VPL.2000.0003.2805, Officer Fox recorded that information concerning the defence Zahroula Mokbel would utilise was "*Not disseminated owing to information being defence legal strategy.*"

⁵⁹⁵⁵ Transcript of Peter Smith, 11 September 2019, 6156-7, TRN.2019.09.11.01, concerning Mr Karam:

Mr Woods: What I'm asking is whether or not it would have been appropriate to say to Ms Gobbo, given the fact that she was actively working against her client's interests in this regard, that you would have nothing further to do with her at that stage?

Officer Smith: I don't know, I didn't think about that.

Mr Woods: You accept that she had a conflict of interest?

Officer Smith: It was a difficult situation but what does conflict mean? What does that mean? I don't - as I say, I see it as two separate matters. I know she was acting for him but also at the same time passing on information. I'm not trying to be obtuse here, but in my mind that was acting separately.

Mr Woods: It is precisely those two separate matters that I'm asking you to reflect on?

Officer Smith: Right.

Mr Woods: The first is she was acting for him, and you accept that?

Officer Smith: Yes.

Mr Woods: The second is she was implicating him in serious criminal activity, you accept that?

Officer Smith: Yes, telling us about what he was doing, yes, she was.

Mr Woods: Criminal activity that he was undertaking?

4766. Recognising that while sometimes the relevant legal concepts are simple and sometimes they are complex, and acknowledging that police members are generally not legally qualified, it is self-evident (and was accepted by a number of police witnesses) that legal advice should have been obtained prior to or during Ms Gobbo's registration.

Supervision and Management

4767. Given the significant failings detailed throughout these submissions, it is self-evident that a failure in supervision, management and governance contributed to the relevant conduct. In this regard, it is submitted that the Kellam Report's findings as to senior command's lack of effective oversight and supervision were well-founded.⁵⁹⁵⁶
4768. Despite the clear recommendation prior to and consequent upon the DSU pilot program the SDU lacked its own Inspector for too long. Until May 2010, the SDU (which dealt with numerous high risk human sources, one of whom, Ms Gobbo required exhaustive attention), shared an Inspector who was based offsite, with the UCU.⁵⁹⁵⁷ When Mr Biggin, as a Superintendent, took functional control of the SDU, he had very significant other demands on his time.⁵⁹⁵⁸ Mr Sandy White, who was effectively in charge, and without the benefit of a superior officer to consult with and oversee his work, was faced with the task of actively managing and supervising his officers and their sources and managing the unit. It was obviously an onerous task.
4769. In addition to those problems, the procedures for managing these complex human sources appeared to develop on the go. As a consequence, they were inadequate. The process of authorising the registration of Ms Gobbo whilst a significant improvement on the previous system, was clearly incapable of filtering out such a risky candidate. Some risks were identified, including those associated with her profession, but the major risk was not. The process of approval was ineffective, and without attention given to the significant risks that the relevant informing posed to the proper administration of the criminal justice system.⁵⁹⁵⁹
4770. Mr O'Connor drew a stark picture of the culture which was permitted to develop within the SDU in the years prior to 2010 when he commenced as

Officer Smith: Yes.

Mr Woods: All right. You accept that there is a conflict or a tension between those two matters?

Commissioner: Between continuing to act?

Officer Smith: M'hmm.

Commissioner: And giving information to the police about his actions?

Officer Smith: Looking back now, yes, there may have been. But I didn't consider it back then.

⁵⁹⁵⁶ Exhibit RC0113 Murray Kellam, *Report Concerning Victoria Police Handling of Human Source Code Name 3838* Report, 6 February 2015, COR.1000.0003.0039.- for example, at "Issue 6":

"The failure by those senior officers of VicPol responsible for the overall operation and oversight of the SDU to ensure that such SOP requirements were put into effect contributed to the creation of and continuance of such risk."

⁵⁹⁵⁷ RC0795 Statement of Superintendent John O'Connor, 11 October 2019, VPL.0014.0077.001.

⁵⁹⁵⁸ Transcript of Mr Biggin, 11 October 2019, 7818-9, TRN.2019.10.11.01.

⁵⁹⁵⁹ See, for example, Exhibit RC1259 Statement of Mr Ian Thomas, 19 September 2019,

VPL.0014.0056.0001, who was the Superintendent in charge of the SDU. Under Chief Commissioner's Instruction 6/04 and as the Detective Superintendent of State Intelligence, Mr Thomas was both the Central Informer Registrar and the Local Informer Registrar. At paragraph [14], he accepted that Officer White discussed the risks of registering a barrister, but says at paragraph [15] "*to my knowledge, at the time she was registered there was no legal bar or policy direction that would prohibit the use of lawyers as human sources in Victoria.*"

Detective Inspector of the SDU.⁵⁹⁶⁰ The picture speaks to a lack of effective oversight and supervision which had previously persisted.

Failure to Take Responsibility for the Decisions that led to the Use of Gobbo against Clients and Non-Disclosure of that Fact

4771. The obligation to disclose material to an accused which might assist them in establishing a defence was understood by the current and former police members who gave evidence to the Commission. There was clearly a failure to disclose Ms Gobbo's role to the prosecution or the court (so that a claim of PII could be made) and/or to a large number of people to whom it should have been disclosed.
4772. The evidence demonstrated that various units of Victoria Police, and current and former members within those units, may have assumed or expected that important advices had been received and approvals given, when they had not. These apparent assumptions may have led to failures to question the appropriateness of what was occurring. The result was an extraordinary protracted period in which the registration continued in the absence of legal advice. At the same time, it appears that there may have been uncertainty about who was responsible. Some examples are set out below.
4773. Mr Overland's evidence was that after an oral direction to his subordinates, he simply expected the direction would be followed, but did not check that it had been. He said that because the SDU was not within the Crime Department, the responsibility for Ms Gobbo's registration and management sat elsewhere.⁵⁹⁶¹
4774. Mr O'Brien told Mr Kelly that Ms Gobbo's use as a human source was authorised at the highest levels, and Mr Kelly, while uncomfortable, took at least some comfort from this.
4775. The SDU officers have claimed that they did not see their role as including any responsibility for disclosure. Despite that claimed view, there was evidence that in circumstances in which there was a risk of Ms Gobbo's exposure (invariably around court proceedings) they became closely involved with investigators in managing those risks.
4776. Further, there was an incorrect view, held by a number of members of the SDU and other police officers, that the identity of a human source should never be revealed – no matter what.
4777. It is apparent that despite very clear evidence that the use of Gobbo was fraught with danger, many current and former members who appeared before the Commission, whilst accepting the danger, or at least potential danger, did not accept responsibility.
4778. The evidence of many current and former members who provided evidence to the Commission was that responsibility lay with someone else, often Ms Gobbo. Some examples were:

⁵⁹⁶⁰ Exhibit RC0795 Statement of Superintendent John O'Connor, 11 October 2019, 24-28, [137]-[157], VPL.0014.0077.001 @.0024-28.

⁵⁹⁶¹ Transcript of Mr Simon Overland, 16 December 2019, 11429, TRN.2019.12.16.01.

4778.1. Officer Sandy White's position was that whilst he told Ms Gobbo to avoid certain conflicts, conflicts of interest were ultimately a matter for Ms Gobbo,⁵⁹⁶² not him or his team

4778.2. Mr O'Brien said conflicts were a matter for Ms Gobbo.⁵⁹⁶³

4779. In short, generally:

4779.1. the SDU saw the propriety of their obtaining of information from Ms Gobbo and its ultimate use as a matter for Ms Gobbo, their

⁵⁹⁶² Transcript of Mr Sandy White, 31 July 2019, TRN.2019.07.31.01:

Officer White: The conflict of interest is hers. I always thought that was her responsibility, not my responsibility.

Mr Winneke: So you wash your hands of it?

Officer White: Mr Winneke, the record shows that we tried on numerous occasions to avoid conflict of interest issues and you've already, I think, established we were not very successful.

Mr Winneke: Did you ever at any stage say, "Listen, if this happens on one more occasion that is the end of the relationship between Victoria Police and Nicola Gobbo"?

Officer White: I did tell her quite clearly on one occasion that - - -

Mr Winneke: When was that?

Officer White: Sorry, I'm just making sure I have the names correct here. I told her specifically in relation to [Cooper] that she couldn't go and represent him and she said to me, "Sandy, I'm going to whether you like it or not"...

Mr Winneke: Right. And the reason you told her is because it would be undermining the system of justice if she was acting for a person, providing advice to a person who she had helped have arrested?

Officer White: Yes.

Mr Winneke: She defied you, you say?

Officer White: Yes.

Mr Winneke: Did you then find yourself in a difficult position where you would need to consider making disclosure, that is telling Cooper that the person that you knew the person who was providing him advice was in fact an agent of Victoria Police?

Officer White: No, my consideration at the time was what can I do about it? What mechanism did I have to stop her doing that?

⁵⁹⁶³ Transcript of Mr O'Brien, 4 September 2019, 5513, TRN.2020.09.04.01:

Ms Tittensor: You were aware that the person that she was - that the police would be wanting information about from her was Tony Mokbel?

Mr O'Brien: That's correct.

Ms Tittensor: You were aware that Tony Mokbel was her client?

Mr O'Brien: She'd certainly represented him, yes.

Ms Tittensor: Did that not scream conflict to you?

Mr O'Brien: It was a conflict for her. I was more interested in what was still going on and what criminal acts were being committed.

Ms Tittensor: Did you foresee the possibility that it might create some great difficulties for police?

Mr O'Brien: Yes.

Transcript of Mr O'Brien, 6 September 2019, 5805, TRN.2020.09.06.01:

Ms Tittensor: Had your level of shock diminished a bit by that stage? It was becoming de rigueur, wasn't it, that she would involve herself where there were conflicts?

Mr O'Brien: She shouldn't have involved herself, no.

Ms Tittensor: Should the police have allowed it to continue?

Mr O'Brien: In hindsight, probably not.

Ms Tittensor: Milad Mokbel had been arrested as a result of the assistance provided by [Cooper], is that right?

Mr O'Brien: That's correct.

Ms Tittensor: Ms Gobbo had also been providing information about Milad Mokbel as well as Mr Cooper and others?

Mr O'Brien: Yes, a number of others.

Ms Tittensor: There was no way on earth that Milad Mokbel could receive impartial, independent advice from Ms Gobbo?

Mr O'Brien: Again, you'd have to ask Ms Gobbo that question.

Ms Tittensor: You as a - standing back, can you say he would receive from her impartial, independent advice?

Mr O'Brien: As an outside observer, probably not.

superiors and the investigators – and they had no expectation of their actions being disclosed to accused persons

- 4779.2. the investigators saw the propriety of the SDU obtaining information from Ms Gobbo as a matter for the SDU and saw no need to disclose the provenance of the information to accused persons
- 4779.3. the Assistant Commissioner of Crime, while accepting some responsibility, did so on the basis that his directions had not been followed by his subordinates
- 4779.4. Mr Biggin candidly accepted some responsibility for his role in Victoria Police's use of Ms Gobbo as a human source.⁵⁹⁶⁴

4780. **On the evidence, it is open to the Commissioner to find that whilst most current and former members of Victoria Police who appeared before the Commission were aware of the risks of using Ms Gobbo as a human source in circumstances in which she was informing upon her clients, they were reluctant to concede the responsibility lay in their unit, rather than elsewhere.**

Failure to Make Proper Disclosure

4781. Ms Gobbo's role and conduct was something that was self-evidently relevant to the defences of many accused people.
4782. A series of failures to make appropriate disclosure to such individuals appear throughout these submissions. Because those failures occurred on so many occasions and across multiple levels of Victoria Police, the failure appears to have been systemic.
4783. Mr Overland's evidence was that whilst he simply did not know whether proper disclosure as to the provenance of information was being made to people to whom a duty to disclose that information was owed,⁵⁹⁶⁵ he also trusted the detectives to ensure proper disclosure was made.⁵⁹⁶⁶ He did not

⁵⁹⁶⁴ Transcript of Mr Anthony (Tony) Biggin, 11 October 2019, 7796, 7820, TRN.2019.10.11.01.

⁵⁹⁶⁵ Transcript of Mr Simon Overland, 16 December 2019, 11332, TRN.2019.12.16.01.

⁵⁹⁶⁶ Transcript of Mr Simon Overland, 16 December 2019, 11332, TRN.2019.12.16.01.

Mr Winneke: Did you ever speak to your investigators who were informants in cases to find out whether they had made disclosure to the prosecution of the fact that information had come via Ms Gobbo?

Mr Overland: So I assumed the investigators that were dealing with these matters would make appropriate disclosures. They were very experienced investigators and I - and certainly in anything I had been directly involved in, which was mainly around people charged with serious offences then being rolled, the colloquial term for co-operating and receiving a discount on sentence as a result of that.

Transcript of Mr Simon Overland, 16 December 2019, 11333, TRN.2019.12.16.01:

Mr Winneke: Did you ever ask any of your investigators whether they had made known to prosecutors that Ms Gobbo had been a source?

Mr Overland: No, as I said previously, I assumed - they were very experienced senior investigators.

Mr Winneke: Yes?

Mr Overland: I assumed they would make appropriate disclosure.

Mr Winneke: Yes, all right. But aside from an assumption, it was never made - you'd never made your view clear to them that there should be a disclosure?

Mr Overland: I didn't think I needed to. I thought that was understood.

accept responsibility for a failure to make proper disclosure to relevant accused people. It is submitted that it is difficult to accept that he could have assumed that the courts were determining such questions without it coming to his attention.

4784. Officer Sandy White's firm position was that it was not his unit which was responsible for disclosure.⁵⁹⁶⁷ However, as the evidence indicates, Officer White and the SDU used every effort to ensure that Ms Gobbo's role as a human source was not revealed, and he often was aware and became involved when such issues arose. His superiors were aware in some cases when Ms Gobbo's exposure was avoided.
4785. The protection of Ms Gobbo's identity and conduct included ensuring that investigators' notes were either not taken, or that notes did not reveal the fact of a human source's involvement in any investigation.

Victoria Police Response to High Court Decision and Royal Commission

4786. The culture or attitude of an organisation can no doubt be assessed in many ways, but the statements made by its leadership will invariably be enlightening. More importantly, those statements have the effect of setting or perpetuating the organisational culture or attitude.
4787. If a Chief Commissioner gives the messages or hints to the members that convictions for serious crime can be obtained by whatever means, then whatever means might well be employed.
4788. It is submitted that if leadership by express statements approve of or may be seen to justify unethical or unlawful behaviour, such statements may be dangerous to the fabric of an organisation such as Victoria Police. In making such statements the leadership says to its members, in clear enough terms, that they can ignore the proper and lawful processes and they can ignore the express statements of the Courts. In effect the message is that they need not respect the solemn oath or affirmation that each officer swore when becoming a member of the police force to: '... prevent to the best of my power all offences, and that while I continue to be a police officer I will to the best of my skill and knowledge discharge all the duties legally imposed on me faithfully and according to law'.
4789. On 5 November 2018, the High Court revoked a grant of special leave to appeal from a decision of the Court of Appeal of Victoria, which had in turn upheld a decision of the Supreme Court of Victoria.⁵⁹⁶⁸
4790. The question in that litigation was whether seven people who had been convicted of very serious crimes should be entitled to be told that Victoria Police had taken the most unusual step of using a practising criminal barrister, Ms Gobbo, as an informer, in circumstances where that use might have caused miscarriages of justice. In the Supreme Court, Justice Ginnane had determined, and the Court of Appeal agreed, that the conduct of Ms

Mr Winneke: In any event, what you say is it should have been done?

Mr Overland: Yes

⁵⁹⁶⁷ Transcript of Mr Sandy White, 2 August 2019, TRN.2019.08.02.01.

⁵⁹⁶⁸ *AB (a pseudonym) v CD (a pseudonym)* (2018) 93 ALJR 59.

Gobbo and Victoria Police was sufficiently aberrant, and created enough concern about the trial processes of each of the convicted persons, to justify departing from the usual rule that the identity of a police informer should never be revealed.

4791. The seven Justices of the High Court, in effect, unanimously agreed with the four Victorian Supreme Court justices, and in very economical and considered terms set out their reasons why. It pays to repeat them:⁵⁹⁶⁹

As Ginnane J and the Court of Appeal held, there is a clear public interest in maintaining the anonymity of a police informer, and so, where a question of disclosure of a police informer's identity arises before the trial of an accused, and the Crown is not prepared to disclose the identity of the informer, as is sometimes the case, the Crown may choose not to proceed with the prosecution or the trial may be stayed.

Here the situation is very different, if not unique, and it is greatly to be hoped that it will never be repeated. EF's (Ms Gobbo's) actions in purporting to act as counsel for the Convicted Persons while covertly informing against them were fundamental and appalling breaches of EF's obligations as counsel to her clients and of EF's duties to the court. Likewise, Victoria Police were guilty of reprehensible conduct in knowingly encouraging EF to do as she did and were involved in sanctioning atrocious breaches of the sworn duty of every police officer to discharge all duties imposed on them faithfully and according to law without favour or affection, malice or ill-will. As a result, the prosecution of each Convicted Person was corrupted in a manner which debased fundamental premises of the criminal justice system. It follows, as Ginnane J and the Court of Appeal held, that the public interest favouring disclosure is compelling: the maintenance of the integrity of the criminal justice system demands that the information be disclosed and that the propriety of each Convicted Person's conviction be re-examined in light of the information. The public interest in preserving EF's anonymity must be subordinated to the integrity of the criminal justice system.

To say so is not to overlook that, on the evidence before the courts below and now before this Court, EF and her children will be at grave risk of harm unless EF agrees to enter into the witness protection program. Nor is it to ignore that, thus far, EF has declined to do so, taking the view that Victoria Police cannot be trusted to maintain confidentiality and apparently that she would prefer to wear the risk than subject herself and her children to the limitations and burdens that witness protection would surely entail. It is further not without significance that Victoria Police may bear a large measure of responsibility for putting EF in the position in which she now finds herself by encouraging her to inform against her clients as she did. But large though those considerations may be, they do not detract from the conclusion that it is essential in the public interest for the information to be disclosed.

Generally speaking, it is of the utmost importance that assurances of anonymity of the kind that were given to EF are honoured. If they

⁵⁹⁶⁹ At 61-2 [9]-[12] (Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ).

were not, informers could not be protected and persons would be unwilling to provide information to the police which may assist in the prosecution of offenders. That is why police informer anonymity is ordinarily protected by public interest immunity. But where, as here, the agency of police informer has been so abused as to corrupt the criminal justice system, there arises a greater public interest in disclosure to which the public interest in informer anonymity must yield.

4792. The High Court's reasons were published on 3 December 2018.

4793. The immediate response of the Chief Commissioner, Mr Graham Ashton, was a public statement, clearly arguing a 'desperate times called for desperate measures' justification for Victoria Police's use of Ms Gobbo as a human source against her clients:

Melbourne was in the grip of what is now widely known as the gangland wars. Over the preceding 12 months, numerous people had been murdered, some in very public locations, and high profile criminals were vying for control of drug operations that were inflicting serious harm on the Victorian community. It was accordingly, a desperate and dangerous time.

4794. The Chief Commissioner has made a series of widely broadcast public statements since the High Court reasons were published suggesting that its observations were unfair or unfounded. For example, on 3AW on the morning of 13 December 2018 there was the following discussion:

Neil Mitchell: See, we've got the High Court describing Victoria Police's conduct as reprehensible and atrocious

Graham Ashton: Yeah, well, every court case along the way has been critical of our conduct; Police conduct in the matter. In relation to it being – you know I think any number of adjectives have been used. And certainly, any time in my time over the last how many years it's discussed, anyone in the legal profession has had that view; everyone ...

Neil Mitchell: But you still have no regrets of your involvement?

Graham Ashton: No, not of my involvement. And I don't think – and I think you'd probably find most people would ultimately share that view.

Neil Mitchell: Despite every court, including the High Court, saying it's reprehensible behaviour?

Graham Ashton: Yeah, look I've said it was a high-risk activity. But at the time, there was a lot of high risk things going on with Vic Pol.

Neil Mitchell: The ends justifies the means?

Graham Ashton: Not a case of the ends justifying the means, but certainly, you look at it at the context of the time

why people- inevitably in life and anything you deal with professionally, you don't want to take risks. But circumstances when you're trying to protect the community require risks to be taken sometimes. And it's a matter of measuring that risk, trying to say, well you know, no one wants to do anything illegal here, no one wants to do anything that's going to be against the disciplinary environment. But, you know, you have to make decisions and act in ways that protect the community. And you have to try and make sure that you do it legally. But it might be something that people might criticise, but it has to be looked at in that environment in my view.

Neil Mitchell: You want to do it legally. Do you also want to do it ethically?

Graham Ashton: Well again, ethics comes into that. Ethics is a murky, murky thing, I reckon, Neil. You know, what's ethical and what's not is often a judgement that a person makes individually and then other people try and apply their judgement onto other people's judgements. That ethics has to be weighed up in that whole environment around what Police were dealing with at the time ... it was a very testing time for Vic Pol and testing time for the community. Police were under a lot of pressure to bring about a conclusion to those underworld killings, particularly when you had shots being fired at (indistinct)... and kids running around you just think: jeez, what's next?

4795. On 28 March 2019, during the conduct of the Commission, Mr Ashton made similar public comments:

Neil Mitchell: She [Ms Gobbo] went through 'til 2010 which was after the gangland wars.

Graham Ashton: ...there was significant underworld activity right through that period as well.

Neil Mitchell: It's the old argument that the end justifies the means.

Graham Ashton: The question is what was the means and what was wrong with the means.

Neil Mitchell: The High Court had a view that it was atrocious behaviour by Vic Pol.

Graham Ashton: And the courts have a view about this all the way through...it doesn't mean that we don't take a slightly different view of that.

Neil Mitchell: You take a slightly different view to the High Court of Australia?

Graham Ashton: Yeah.

4796. On 9 May 2019 a caller to ABC Radio asked Mr Ashton the following question:

Caller: I'd like to ask the Commissioner how he expects people to have any respect for the police force when he and the ex-commissioners continue to defend the abuse of one of the most basic principles of Western law – the lawyer-client privilege- confidentiality privilege. You know there is absolutely no justification to defend it and I'd like to know why he and his ex-commissioners keep trying to defend themselves in this global issue.

Mr Ashton: Look, it's a case of making sure that if any information passes that impacts on someone's fair trial, that's absolutely – we want that to be dealt with and if someone has had an unfair trial because of that, then absolutely we'd put our hand up and say that's not appropriate and has to be dealt with. By the same token, we're entitled to seek to solve crime. We're entitled to particularly organise a significant organised crime. We're entitled to ask questions and seek information from any person in order to solve a crime and if that person is a priest, a lawyer, a doctor, that we should be able to ask any people about crime. And people come and offer information to us. Again, we would be derelict in our duty if we just simply turned that person away because they are from a particular group. The important thing is to try and make sure that that information is being used appropriately, that isn't compromising anyone's fair trial.

4797. On 27 June 2019, on Radio station 3AW, Mr Ashton again criticised the High Court's findings in the following comments:

Mr Mitchell: The High Court said Vic Pol was guilty of reprehensible and atrocious behaviour. Do you still reject that?

Mr Ashton: At the time, what police had to deal with was a very difficult situation and someone was able to assist in dealing with that crime and police have taken the information from someone who was able to assist them and I think if they hadn't done that, where would they have been in relation to some of those matters as well. So there's a lot to be taken to account, it's not just the matter of the fact that police used a lawyer as a human source. It's just that there's a lot of complexity in that that police had to deal with.

4798. As the inquiry proceeded, the extent of Ms Gobbo's role as a human source, and the conduct of members of Victoria Police, at all levels of the hierarchy has become more apparent. Further, a person who had been convicted of murder had been acquitted and released from custody, on the basis of the conduct of Ms Gobbo operating as a police informer, hand in glove with members of Victoria Police who handled and deployed her. In making the order of acquittal, the Court of Appeal commented that the matters with which it was dealing are:⁵⁹⁷⁰

...of great significance to the Victorian community, and of deep concern to participants in the justice system. They affect the integrity of our system of criminal trial which is, of course, a cornerstone of our democracy.

4799. The public nature of this Commission and the decisions of the Courts consequent upon the conduct of Ms Gobbo and Victoria Police has meant that any currently serving member of Victoria Police would be well aware of the essential facts and attuned to any statement made by Mr Ashton. If for no other reason (and there are other very good reasons) it would be hoped that Mr Ashton, as the Chief Commissioner, would be very careful not to suggest to his organisation, even before the conclusion of the Commission, that the conduct of Victoria Police members was justifiable. To do so may well have the tendency to perpetuate the very culture or attitude that contributed to the circumstances justifying this inquiry. And yet, Mr Ashton has continued to do so.

4800. On 13 February 2020, Mr Ashton had the following exchange on ABC Radio:

Mr Ashton: Well your premise at the start of that is that because someone is a lawyer it automatically prohibits them from assisting police. That's not –

Ms Trioli: Well that kind of lawyer with those kinds of clients, yeah it follows logically.

Mr Ashton: Well I think from the evidence I think it's been shown that her relationship with the criminal community was broader than simply being a lawyer in relation to that our sense of a lawyer-client relationship – I think that's been clearly provided in evidence. The mere fact that someone is a lawyer and assist police is not in of itself prohibited. It's the nature of the information, it's what's provided and this is what the Royal Commission is about – trying to establish how far that crossed the line, and if it crossed the line, how has it happened, and to make recommendations that it can't happen again. That's what it's about.

Ms Trioli: It just seems to fail the pub test or the sniff test that anyone like that who might be registered as an informant—you just can't imagine they'd be

⁵⁹⁷⁰ *Orman v The Queen* (2019) 59 VR 511, 514 [17] (Maxwell P, Niall and Emerton JJA).

called upon by police during the tragedy and the drama of the gangland wars to inform on anything else but.

Mr Ashton: Well I think it exactly passes the pub test, quite the contrary, where police are trying to deal with very serious offending at that time. And if you cast your mind back to that time we've had lots of serious issues in relation to the gangland wars the police were trying to deal with –

Ms Trioli: No one argues with that, hence the securing of certain services.

Mr Ashton: And that – and you had somebody that was at that time talking to police and they were – their relationship with the community- criminal community was broader than, as it's been established, broader than a simple lawyer-client relationship and police endeavoured to act on that information. I don't think that fails any pub test.

4801. In an interview published on 6 June 2020, Mr Ashton said of Victoria Police's use of Ms Gobbo as a human source:⁵⁹⁷¹

Obviously, it hasn't helped to have a royal commission running for 18 months into the matter. We've already put a lot of things in place to try and make sure those things can't reoccur.

We had underworld killings, people being shot all over the place. The risk to life, the risk to innocent civilians was considerable at the time.

There was a lot of pressure on police ... to deal with that. It was a high-pressure crime environment back then that people can lose sight of. That doesn't excuse doing anything wrong but it's important that it's understood in that context.

4802. **On the evidence, it is open to the Commissioner to find that in his media interviews following the publication of the High Court's decision and during the conduct of the Commission, as Chief Commissioner of Police, Mr Ashton:**

4802.1. **expressed the view that the 'pub test' is a more acceptable standard of police conduct than what the rule of law requires**

4802.2. **sought to justify potentially corrupt activity by Victoria Police on the basis that "the ends justify the means"**

4802.3. **sought to avoid Victoria Police taking responsibility for the conduct of Victoria Police members which was correctly described by the High Court as atrocious and reprehensible**

4802.4. **sent a message to Victoria Police members which might be understood by them to mean that they can safely ignore both the rule of law and the condemnation of the High Court and engage**

⁵⁹⁷¹ Mark Butler, 'Lore And Order of Police Work,' *Herald Sun* (6 June 2020) [publicly available].

in 'noble cause' corruption, and in so doing may be responsible for perpetuating a culture in Victoria Police in which 'noble cause' corruption is acceptable

4802.5. failed to discharge his responsibility to ensure that Victoria Police members act ethically and in scrupulous compliance with the law.

Continuing Obligation to Disclose since the Commencement of the Royal Commission

4803. It is submitted that both the speed and method by which Victoria Police has been making disclosure to potentially affected people is a matter of concern.
4804. Whilst the task of disclosure is onerous, that is a reason to take steps as soon as possible to undertake it. The evidence suggests that no significant steps had been put in train prior to the High Court's decision. Given the fact that by that stage Victoria Police had received the Comrie Report, the Kellam Report, Justice Ginnane's decision and the Court of Appeal's decision it would have come as no surprise that an obligation to provide disclosure would be the outcome of the High Court proceeding.
4805. There are over 1,000 potentially affected persons being assessed by Victoria Police.
4806. In May 2019 the Court of Appeal directed Victoria Police to prioritise disclosure to the few individuals who had already commenced appeal proceedings. It appears this has been a large task for Victoria Police over the course of 2019 and 2020, to the detriment of progress for other potentially affected persons equally entitled to disclosure.
4807. After ongoing discussions between the Commission and Victoria Police about the progress being made with respect to disclosure to potentially affected people, on 6 November 2019, Victoria Police formally advised that in addition to those persons with an appeal on foot in the Court of Appeal it agreed with the Commission's suggestion that priority be given to disclosure to potentially affected persons in custody.⁵⁹⁷²
4808. By 6 December 2019, the Commission understood that a total of 30 persons had received disclosure from Victoria Police.⁵⁹⁷³ At this time, the Commission understood that at least 70 potentially affected persons were in custody and that only 17 of these people had received disclosure.

⁵⁹⁷² Exhibit RC1715 Letter from Mr Daniel Marquet to Mr Howard Rapke, 6 November 2019, RCMPI.0190.0001.0002.

⁵⁹⁷³ Exhibit RC1806 Victoria Police, 'List of Persons with Disclosure Materials', 6 December 2019, produced by Victoria Police in response to a Commission Notice to Produce, RCMPI.0120.0002.0001.

4809. Concerned by this, the Commissioner wrote to the Chief Commissioner. Amongst other things, the letter requested that Victoria Police provide a weekly update as to its ongoing disclosure to potentially affected persons.⁵⁹⁷⁴
4810. In January 2020, Victoria Police commenced providing the Commission with weekly disclosure reports. This has allowed the Commission to understand the prioritisation process for potentially affected persons beyond those with appeals on foot or in custody and to ask Victoria Police to clarify matters included in the report.
4811. A particular concern has arisen in relation to the way that searches have been conducted for disclosable materials. Initially (i.e for several years now) Victoria Police has restricted its search for disclosure materials relating to affected persons, to searching for name references in the 'Loricated database'. The 'Loricated database' consists of files recording the use of Ms Gobbo as a human source between September 2005 to January 2009. It does not contain information relating to other periods of Ms Gobbo's informing nor does it contain many relevant handwritten diary entries and other materials such as telephone intercepts which would otherwise be disclosable.
4812. In mid-May 2020, Victoria Police advised the Commission that due to additional material that had come to light during the Commission's hearings and requests for material from defence teams in the appeal proceedings it had extended its search outside the 'Loricated database' for materials relevant to certain persons.⁵⁹⁷⁵ It is concerning that Victoria Police had not initiated these broader searches earlier.
4813. It is also submitted that it is a matter of concern that Victoria Police is prioritising disclosure to those persons who, in the opinion of Victoria Police, were not affected by Ms Gobbo's conduct over those who were affected by Ms Gobbo's conduct. For example, in a 12 June 2020 weekly disclosure report Victoria Police advised as follows:
- 4813.1. As at 12 June 2020, Victoria Police has created 975 'nil hit' or 'nil value' reports. The Commission understands that these reports indicate that Ms Gobbo either did not refer to that person at all or referred to that person in such a way that it had no impact on their case. Of those, 383 have been disclosed to the prosecution service for disclosure to a potentially affected person
- 4813.2. As at 12 June 2020, Victoria Police has created 222 'summary of extracts' and 'packages' indicating substantial informing by Ms Gobbo. Of those, only 28 have been disclosed to the prosecution service for disclosure to a potentially affected person.⁵⁹⁷⁶

⁵⁹⁷⁴ Exhibit RC1714 Letter from Hon Margaret McMurdo AC to Chief Commissioner Graham Ashton, 16 December 2019, RCMP1.0177.0003.0001.

⁵⁹⁷⁵ Exhibit RC1797 Taskforce Landow Disclosure Process Report, 12 June 2020, RCMP1.0185.0002.0001.

⁵⁹⁷⁶ Exhibit RC1797 Taskforce Landow, 'Disclosure to a Prosecution Service/Person of Interest, 12 June 2020, RCMP1.0185.0002.0001.

4814. It is submitted that it is to be expected that Victoria Police will now focus on prioritising disclosure to all individuals Counsel Assisting have submitted may have been affected by the conduct of Ms Gobbo and Victoria Police.

CHAPTER 24 – [REDACTED]

[REDACTED] MR
MCCALLUM [REDACTED] (A
PSEUDONYM)

Introduction

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First Contact

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ANNEXURE A: USE OF PSEUDONYMS

The following names used in these submissions are pseudonyms which have been applied for safety and security reasons or due to court orders in place.

- Barrister 1
- Co-accused 1
- Co-accused 2
- Co-accused 3
- Co-accused 4
- Law Firm 1
- Member 1
- Member 2
- Mr Adams
- Mr Agrum
- Mr Andrews
- Mr Arnold
- Mr Bickley
- Mr Boyd
- Ms Brooke
- Mr Carlson
- Mr Cooper
- Mr Cooper's relative
- Mr Daniels
- Mr Dawes
- Mr Dunlop
- Mr Eddington
- Mr Elk
- Mr Ellsworth
- Mr Emerson
- Mr Goldman
- Mr Gregory
- Mr Gregory's relative
- Mr Hamilton
- Mr Hastings
- Mr Huntley
- Mr Irons
- Mr Joyce
- Mr Kearney
- Mr Keene
- Mr Kelvin
- Mr Ketch
- Mr Khan
- Mr King
- Mr Kruger
- Mr Linley
- Mr Luxmore
- Mr Maddox
- Mr McGrath
- Mr Newton
- Mr Parrish
- Mr Saturn
- Mr Shannon
- Mr Snyder
- Mr Summers
- Mr Theodore
- Mr Thomas
- Mr Thomas' personal partner
- Mr Winchester
- Mr Winters
- Ms Brooke
- Ms Kline
- Ms Myers
- Officer 4
- Officer Alley
- Officer Anderson
- Officer Black
- Officer Cruze
- Officer Esplanade
- Officer Fox
- Officer Gardener
- Officer Graham Evans
- Officer Green
- Officer Haven
- Officer Highway
- Officer Hotham
- Officer John Brown
- Officer Lloyd
- Officer Malachite
- Officer Pearce
- Officer Peter Smith
- Officer Preston
- Officer Richards
- Officer Sandy White
- Officer Terrasse
- Officer Wolf
- Operation 1
- Operation 2
- Person 2
- Person 3
- Person 5
- Person 12
- Person 16
- Police Officer 1
- Riley Stevenson
- Solicitor 1
- Solicitor 2

Pseudonyms have been applied throughout this volume:

- where court orders require it
- where the Commission has determined it is appropriate based upon requests for reputational, privacy or safety reasons
- where the Commission has determined it appropriate in relation to case studies it was unable to serve on individuals.