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From: Heffernan, Tamara
Sent: Thu, 15 Mar 2007 11:54:53 +1100
To: Rowe, Paul; Flynn, Dale
Subject: Note re conference with DPP
Attachments: FileNoteDPP14.3.07.doc

FYI.



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OFFICE OF PUBLIC PROSECUTIONS

FILE NOTE

DATE: 14.3.07
 TIME: 9.00
 FILE NAME: Bickley

Conference with the DPP.

Present – T Heffernan, Paul Rowe, Dale Flynn of Purana.

The DPP had read the materials I had provided.

He commented that Bickley just “wants everything” and if he goes to Europe, he will not be compellable.

In the DPP’s view, Bickley should simply be arrested & charged with ██████████ if he balks at signing his statements & is being difficult. We are happy to go to trial on both.

Also, if he starts carrying on about being a star witness against Tony Mokbel and being extremely demanding, he can be informed that in the DPP’s view, in terms of priority cases against Mokbel at the moment, this would be “about number 5”. The DPP was joking, but it could be made clear to Bickley that he is certainly not regarded as a Crown witness of extreme importance.

Risks to Bickley – not so much with Mokbel absent. However, Radi & Farachi do still have close ties with the Mokbel family. (Suppression orders to be obtained by myself, the usual precautions taken with deletions to portions of the plea transcript etc.)

Sentencing instructions:

The DPP will not agree to recommend a wholly suspended sentence.

He simply cannot be sentenced to less than ██████████ given his role.

And the fact that they got ██████ on top means no suspended sentence. (3 years the max allowed for wholly suspended sentence pursuant to the *Sentencing Act*)

The DPP will concede that parity with ██████████ does have a role, but we would not concede that just because we didn’t appeal those sentences, we believe that they were the correct result. In his view they were extremely low.

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In his view, without co-operation, and on the original trafficking alone, [redacted] would be looking at about 10 on top.

Benefit to [redacted] if pleads & gives undertakings:

- Presentment will allege trafficking from [redacted] only;
- The [redacted] will not go ahead;
- Judge gives discount for undertakings.

The DPP will consider [redacted] for [redacted] to give evidence of the trafficking since 2004.

Possible [redacted] for [redacted] also.

The [redacted] matter – arrested [redacted] 2005, released [redacted] charge bc [redacted] Bickley also visited a company to [redacted] – we don't want to disclose that though as Purana want to keep [redacted] [redacted] has made a statement re [redacted] & given undertaking. There is also a transcript of the conversation - [redacted] is definitely talking about a [redacted]

Radi & Farachi:

In Paul's view, [redacted] is the case against them, some corroboration, but definitely not enough ev without him.

They are the "day to day" men, organising Mokbel's drug matters, looking after his interests.

Separate RADI brief:

DB bought MDMA from RADI – [redacted]
Also made unsigned statements re this.

[redacted] Bickley was the [redacted] of the [redacted] Bickley was arranging for the [redacted] – obtained [redacted] from Mokbel – we don't know where [redacted] came from – could have been [redacted], could have been [redacted] in Vic, but don't know who [redacted] is.

Paul will visit [redacted] again in prison – ask him to make a more full statement, could be charged with offending as far back as [redacted] on [redacted] Bickley's statements. [redacted] likely re earlier period of makes statement.

The DPP commented that this was really the same case as against [redacted] that if Mokbel is located, he wouldn't be charged with both.

Paul reminded us that the [redacted] brief relates to [redacted], that this is [redacted] so is definitely a separate "business venture".

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Bickley's [REDACTED] court matter:

Police have been served with subpoena to produce only, not to give evidence. Will provide copy charges & original police summary to answer this. When all is finalised, [REDACTED] Court can be provided with Crown Opening & presentment.

Restraining orders:

[REDACTED] doesn't have much equity in 2 Brunswick properties.

The DPP has no discretion under the *Confiscations Act* re [REDACTED] matters in any event – is auto-forfeiture.

Doesn't seem to be a huge concern for [REDACTED] in any event.

Conflict of interest – Nicola Gobbo:

In the DPP's view Nicola plainly has a conflict due to her representation of Tony Mokbel.

She also acted in the Milad Mokbel matter [REDACTED].

[REDACTED] Solicitor 2 :

The DPP was told of [REDACTED] Bickley's statement that [REDACTED] Solicitor 2 visited him, unrequested, as a legal professional visit, and said that she was there on behalf of a friend, and held up a piece of paper with "Tony Mokbel" written on it. (page 20, statement dated 20 July 2006) She told him not to say anything.

Paul Rowe also observed that she attended the bail hearings of [REDACTED].

The DPP stated that when Paul visits [REDACTED] he ought ask him to make a statement re [REDACTED] Solicitor 2 as well. May be able to be used at a later date re her practising certificate – the DPP views this very seriously. Paul ought also obtain the prison records to support the visit.

I commented that I didn't think the [REDACTED] Bickley material could be used in the VCAT appeal in April – won't give us enough time to have him dealt with & safely put away. She would immediately know that he has turned witness & probably warn RADI & FARACHI.

The DPP wants the material to be ready asap though.

9.50am Conference with Paul & Dale:

They asked how the non-prosecution of the conspiracy matter ought be dealt with?

A non-authorised brief?

I said I'd think about it and get back to them.

15. 3.2007:

Conference with DPP:

Asked him how we should deal with [REDACTED] matter.

[REDACTED] to be told that the benefit he gets if he gives undertaking is:

- the presentment will allege trafficking [REDACTED] from [REDACTED] 2005 (ie. limited dates);
- that the judge will give a significant discount in sentence due to his co-operation and undertakings;

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- that [REDACTED] will NOT form a presentment count.

However, Bickley ought be told that although [REDACTED] is "forgiven" at this stage, as no Statute of Limitations applies to indictable matters, it simply sits on ice, ready to be triggered if he backflips on the undertakings.

He would then stand to be re-sentenced on his "original" matter in the Court of Appeal (the DPP may appeal at any time upon the breach of an undertaking) AND face a charge of [REDACTED]

As this offence was committed on bail, accordingly s16(3C) of the *Sentencing Act 1991* applies - that is - that there is a presumption that any sentence imposed on [REDACTED] must be served cumulatively on his earlier trafficking sentence. Further, that if he is ultimately sentenced on [REDACTED] matter, he will fall to be sentenced as a serious drug offender pursuant to s.6A and the judge must regard the protection of the community as paramount, and there is also a presumption as to cumulation here also.

Paul expressed the view that Bickley should be told that he ought provide an undertaking to the court that he will NOT leave Australia until he has fulfilled his undertakings. That if he is not prepared to agree to this, the Crown will inform the sentencing judge that it views his undertakings as being of little or no value. (and he would therefore receive very little discount in sentence)

Accordingly, in terms of police paperwork, it probably wouldn't be wise to have the brief as "non-authorized".

It would allow the issuing of a warrant for arrest should he bugger off, and, if we can be bothered, arrange an extradition. The question as to extradition lies only with the DPP though.