

**Statement of Graham Leonard Ashton****Chief Commissioner of Victoria Police**

- 1 My name is Graham Leonard Ashton. I have made this statement in response to a Notice to Produce served on me by the Royal Commission into the Management of Police Informants.
- 2 On 16 August, I was given access to extracts from my diaries relevant to the period of time within which I was employed by the Office of Police Integrity (OPI). I understand that there may be more documents in the possession of the Royal Commission relevant to the questions I have been asked to address that I have not had the opportunity to review.
- 3 I have made this statement and answered the questions asked of me to the best of my ability and based on my recollection of relevant events and on the material that has been made available to me.

**Personal information****Question 1**

- 4 I was appointed the Chief Commissioner of Police on 1 July 2015. I am the twenty second Chief Commissioner of Police in Victoria. I have over 38 years of experience working in and with law enforcement agencies in Australia and abroad.
- 5 In my role as Chief Commissioner, I am responsible for the oversight and management of Victoria Police, consisting of over 21,000 staff providing a 24 hour policing service to the Victorian community.
- 6 I am a former member of the Victorian Sentencing Advisory Council and Victorian Coronial Council.
- 7 In 1999 I completed several leadership programmes including a graduation qualification in management from Queensland University of Technology.
- 8 I attended London Business School in 2009 and undertook an Executive Programme focused on leadership and governance.
- 9 I first joined Victoria Police in December 2009.
- 10 I joined the Australian Federal Police (AFP) shortly after completing high school on 17 November 1980. I moved from my home in Adelaide, South Australia to attend the AFP training academy in Barton, ACT.
- 11 In 1982, I was transferred to the Consulate Protection Unit within the AFP. In this role, I was involved in Consular and VIP protection. I worked between various consulates and performed general personal protection work for consular officials and political figures such as the Governor



- General and Prime Minister. I also performed some static work, including patrolling consulates at night.
- 12 In 1984 I was promoted to First Constable and obtained my first role in plainclothes investigations work. In 1985, I completed the first stage of a detective training course for AFP detectives in Canberra.
- 13 The second stage of the detective training course comprised two years of practical work as a detective in training. I obtained on the job training as a detective in the fraud investigations unit at the AFP. In this role, I started with small investigations into relatively minor crimes, such as basic cheque fraud. I worked in fraud investigations throughout 1984 and 1985. Over time, I was exposed to, and joined the periphery of larger investigations into, for example, tax fraud, large scale benefits fraud and Commonwealth revenue investigations.
- 14 Following practical training, I completed the third and final stage of the detective training course. In 1987, I qualified as a detective and was assigned to Melbourne to work as part of the AFP's drug squad. My work in the drug squad focussed on drug importations and high level drug traffickers. I also gained experience in evidence processing.
- 15 I was first exposed to organised crime in this role. In particular, I worked on "cold" cases that came through Melbourne airport (that is, cases where drugs were found but there were no leads as to who was responsible), and cases involving the trafficking of significant amounts of drugs.
- 16 In 1988, I was seconded from the AFP to the National Crime Authority (NCA) as an investigator. The NCA was established to investigate organised crime and I was part of a joint NCA and Victoria Police team based in Melbourne and led by a Victorian Police Inspector. The team investigated organised crime, fraud and major drug figures in Melbourne, the Gold Coast and Sydney. I did not receive any specialised training when I joined the NCA.
- 17 I was based in Melbourne during my period of secondment to the NCA. However, I travelled around Australia and overseas while working on a range of undercover investigations. I spent some time working in the Philippines.
- 18 In 1990 I was promoted to Detective Sergeant and returned to the AFP drug squad to lead a team of detectives.
- 19 My team did a variety of drug work, including investigating significant importations of narcotics. We had considerable success, including the seizure of what was a record street seizure of cocaine in around 1993, and in uncovering an international cocaine smuggling syndicate and arresting steroid importers.
- 20 In 1995, I was promoted to Acting Superintendent and appointed as Senior Liaison Officer for the AFP across the Indonesian archipelago, based in

- Jakarta, Indonesia. I remained in that position for approximately two and a half years and lived in Jakarta until the beginning of 1998.
- 21 This role was broad and included dealing with trade related crimes as well as paedophilia, drug crimes, people smuggling, and the collection of criminal intelligence. I acted as the liaison between Australian Police and local police.
- 22 During my time as Senior Liaison Officer, I created a more sustainable structure for engagement with Indonesian police by negotiating a Commissioner to Commissioner memorandum of understanding that facilitated annual meetings, joint training and other initiatives.
- 23 After completing my assignment in Jakarta, I was transferred to Sydney as a Sergeant in the AFP Drug Squad. At the end of 1998, I was appointed to the role of Director of Operations Support, Northern Region in the AFP. I was based in Brisbane and was responsible for AFP operations in Queensland, the Northern Territory and the Torres Strait. I was promoted to Commander. During that time, I also performed the role of Director of Operations.
- 24 In these positions, I reported to Simon Overland, who was then Regional Assistant Commissioner Northern Region in the AFP.
- 25 Whilst performing this role, I was called to a meeting in Canberra by then Commissioner of the AFP, Mick Palmer. The AFP was undergoing reform at that time and moving away from a hierarchical structure toward a team-based environment. Given that I had successfully implemented this new structure as Director of Operations Northern Region, Mr Palmer asked me to assist with the reform in the Southern Region. I agreed to do so and was transferred to Melbourne in 1999 as Director of Operations Southern Region working under the Assistant Commissioner of the AFP.
- 26 In this position, I was responsible for AFP operations in Victoria, Tasmania and South Australia. I was based in Melbourne. After a period of several months and in around 2000, the Assistant Commissioner resigned and after going through an application process, I was promoted to Assistant Commissioner Southern Region.
- 27 In October 2002, I was assigned to Indonesia as Police Forward Commander, to lead an international response to the Bali Bombings, known as Operation Alliance. I spent three or four months in Bali supporting local police, providing intelligence and managing a team of about 500 investigators and other specialists.
- 28 I returned to Australia around Christmas 2002, after arrests were made in connection with the Bali bombings.
- 29 In October 2003, I was made a Member of the Order of Australia (AM) for my role as Police Forward Commander in Operation Alliance.
- 30 Soon after returning to Australia, I was assigned to Canberra to run the new Counter Terrorism Command (CTC) in the AFP. In this role, I set up

combined strike force teams in each state and in Indonesia. In particular, I worked to establish a "bricks and mortar" presence in Indonesia by overseeing the creation of a joint training facility to facilitate cooperation and exchange of information. The CTC was proactive in collecting international expertise and developing international networks in order to develop a coordinated response to terrorist attacks.

- 31 In late 2004, I was contacted by the Victorian Ombudsman's Office and was advised that they had formed the OPI.
- 32 The OPI was a government authority separate to Victoria Police, established to provide integrity and complaint oversight of Victoria Police. The role of the OPI was to improve Victoria Police's policies and procedures, as well as to investigate police corruption.
- 33 At its inception, the OPI was operated out of the Ombudsman's Office and George Brouwer, then the Victorian Ombudsman, was the Director of the OPI.
- 34 In December 2004, I successfully applied for and was appointed Assistant Director of the OPI, reporting to Mr John Taylor, the Deputy Ombudsman.
- 35 My role as Assistant Director was to establish a workforce that could investigate police integrity issues and monitor complaints about Victoria Police. As part of the OPI's corruption prevention initiatives, it developed documents for Victoria Police to use in training and to educate police on preventing corruption.
- 36 In December 2009, when I had completed my contract with the OPI, I commenced a role as Director of Corporate Strategy and Governance in Victoria Police. This was an unsworn public service executive role.
- 37 Shortly after, I took on the role of Director of Forensic Services Department, in addition to the role of Director of Corporate Governance. This was also an unsworn public service role.
- 38 In early 2011, I successfully applied for the position of Assistant Commissioner Crime in Victoria Police.
- 39 I commenced work as Assistant Commissioner Crime in April 2011. In that role, I was responsible for Crime Command, various detective squads, the Drug Squad, the Armed Offenders Squad, the Homicide Squad and the Organised Crime Unit.
- 40 In February 2012, I was appointed Deputy Commissioner, Specialist Operations, Victoria Police.
- 41 In January 2015, I successfully applied for the role of and returned to the AFP as, a Deputy Commissioner.
- 42 On 1 July 2015, I was appointed Chief Commissioner of Victoria Police.
- 43 I have received the following commendations and awards:
  - (a) Australian Federal Police Service Medal (1990);

- (b) National Police Service Medal (1995);
- (c) National Medal (1995);
- (d) Australian Federal Police Service Medal, Clasp 1 (2000);
- (e) Australian Police Medal (2003);
- (f) Member Of The Order of Australia (2003);
- (g) Australian Federal Police Operations Medal (2004);
- (h) Australian Federal Police Operations Medal, Clasp 1 (2004);
- (i) National Medal, Clasp 1 (2005); and
- (j) various commendations for work in investigating organised crime and drug trafficking.

#### **Investigations which had dealings with Ms Gobbo**

##### **Question 2**

- 44 I have been involved in the following investigations which have had dealings with Ms Nicola Gobbo:
- (a) an OPI investigation into the leak of IR44. My involvement in this investigation commenced in early 2005;
  - (b) Taskforce Briars. My involvement in the investigation undertaken by Taskforce Briars commenced in February 2007;
  - (c) Taskforce Petra. My involvement in the investigation undertaken by Taskforce Petra commenced in April 2007;
  - (d) Taskforce Purana. My involvement in the investigation undertaken by Taskforce Purana commenced in April 2011; and
  - (e) the Comrie Review, which, together with Deputy Commissioner Tim Cartwright, I initiated in early November 2011.
- 45 My involvement in these investigations is set out below.

##### **OPI Investigation into leak of IR44**

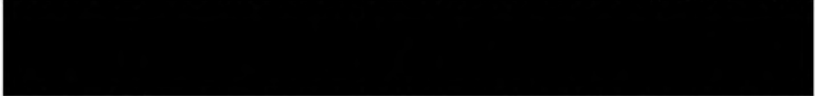
- 46 When I joined the OPI in late 2004, I became aware that there was an investigation underway into possible police involvement in the murder of Terrence and Christine Hodson. This investigation was being conducted by the Director of the OPI, who delegated his powers to conduct the investigation to Mr Fitzgerald QC. Mr Fitzgerald was assisted by Mr John Taylor.
- 47 Early in the investigation, it began to focus on the leak or theft of a police information report known as IR44. The information report contained intelligence provided to Victoria Police by Terrence Hodson which identified him as a police informer.

- 48 I became involved in the investigation in early 2005.
- 49 I contacted Simon Overland, then Assistant Commissioner Crime, to ask him to arrange a meeting between me and members of the Homicide Squad. The purpose of the meeting was for the OPI to understand the status of the Homicide Squad's investigation into the murder of the Hodsons. The OPI wanted to ensure that the OPI investigation did not adversely impact on Victoria Police's ongoing investigation into the murder of the Hodsons.
- 50 I attended the meeting at St Kilda Road Police Station. Assistant Commissioner Overland was present at the meeting, as was Charlie Bezzina and another member of the Homicide Squad whose identity I cannot recall.
- 51 At the meeting, I received a briefing from the Homicide Squad on their investigation. I explained, in broad terms, that the OPI was planning to investigate police involvement in the theft and release of IR44 to the criminal community.
- 52 Meetings between the relevant investigatory branch of Victoria Police and the OPI such as I refer to in paragraph 49 reflected the developing practice between the two agencies to co-operate, where appropriate, with each other so that neither agency's investigations were compromised or adversely affected as a result of the investigation by the other agency.
- 53 As part of the OPI investigation, hearings were held and we interviewed persons of interest who may have had relevant information.
- 54 In preparing this statement, I have been provided by the Commission with extracts from my OPI diary. I note that there is a reference to Ms Gobbo in my diary on 29 May 2006 [IBAC.0015.0001.0003 at 0043]. I have not had access to OPI records that might assist in refreshing my memory about what this entry relates to.
- 55 In mid-2007, a summons was issued to Ms Gobbo to attend a hearing before Mr Fitzgerald QC. The decision to issue the summons was made by the Director after consultation with Mr Fitzgerald QC and the legal department of the OPI. While I was aware of this decision, I do not recall whether I had any input into this decision.
- 56 On 19 July 2007, Ms Gobbo attended the OPI offices for the hearing. She attended a second sitting of the hearing on 17 August 2007.
- 57 I deal further with what happened on those dates at paragraphs 104 to 116 below.

#### **Taskforce Briars**

- 58 On 26 February 2007, I met with Assistant Commissioner Ethical Standards Department (ESD) Luke Cornelius, Director of the OPI George Brouwer, Simon Overland, then Deputy Commissioner and Chief Commissioner Nixon to discuss the establishment of Taskforce Briars.



- 59 The purpose of the proposed Taskforce was to investigate police involvement in the murder of Shane Chartres-Abbott.
- 60 At the time of his murder in 2003, Chartres-Abbott was facing rape charges  

- 61 Victoria Police was concerned about possible police involvement in Chartres-Abbott's murder, and in particular, the involvement of David Waters. It had concerns about the extent of Waters' and other officers' networks within Victoria Police.
- 62 As a result of those concerns, Chief Commissioner Nixon, Deputy Commissioner Overland and Assistant Commissioner Cornelius said that they wanted the OPI to be involved in the investigation. They wanted the Taskforce to be housed at the OPI offices, and wanted the OPI to use its own phone taps and surveillance for the investigation.
- 63 Given this was the first time the OPI and Victoria Police had worked in such a manner, there was discussion at the meeting about entering into an agency agreement.
- 64 On 1 March 2007, I met with Assistant Commissioner Cornelius and Deputy Commissioner Overland to discuss arrangements for Taskforce Briars, including the terms of an agency agreement.
- 65 Taskforce Briars was established on 5 March 2007 by Deputy Commissioner Overland as a joint investigation between the ESD and the OPI. A Board of Management of the Taskforce was also established, comprising Assistant Commissioner Cornelius, Deputy Commissioner Overland, and me as the OPI representative.
- 66 I attended the inaugural meeting of the Taskforce Briars Board of Management on 15 March 2007 along with Assistant Commissioner Cornelius, Deputy Commissioner Overland and Detective Sergeant Rod Wilson.
- 67 On 22 March 2007, a Joint Agency Agreement was entered into between Victoria Police and OPI in respect of the Taskforce Briars investigation [VPL.0005.0012.0610].
- 68 On 15 April 2007, a Memorandum of Understanding was entered into between the OPI and Victoria Police to establish an agreement with respect to the payment of costs between the two parties [VPL.0005.0012.1501].
- 69 I attended some meetings of the Board of Management, at which Board members were provided with an update on the progress of the investigation. I did not attend every meeting of the Board of Management. The OPI Investigative Department was involved in the actual day to day running of the investigation, together with the ESD.

- 70 The OPI held hearings in relation to the Taskforce Briars' investigation. I do not now recall the details of those hearings.
- 71 The Director of the OPI was responsible for determining whether to issue a summons to a person to attend a hearing at the OPI and the legal department within the OPI was responsible for issuing those summonses.
- 72 I have been shown updates provided to the Taskforce Briars Board of Management in September and October 2007 [VPL.0005.0012.1445, VPL.0005.0012.1345, VPL.0005.0012.1273, VPL.0005.0012.0974]. I do not recall the content of these updates but note that either in their text or on handwritten notes, they make reference to "3838". The handwritten notes are not mine. I believe they are notes made by Deputy Commissioner Overland. As referred to in my answer to question 3 below, by this time, I had connected "3838" with Ms Gobbo.

#### **Taskforce Petra**

- 73 By early 2007, Carl Williams had provided a statement to police in relation to the Hodson murders and meetings that he had attended with Paul Dale.
- 74 I do not recall when I first read the statement itself, but I was aware that the information provided by Williams led to the establishment of Taskforce Petra on 25 April 2007 to further investigate the Hodson murders and to collect admissible evidence to successfully charge and prosecute the offender/s responsible for the murders.
- 75 Taskforce Petra was comprised of a team of investigators from Victoria Police. The OPI became involved because Victoria Police was concerned that information, including about the investigation, was being leaked to persons of interest from within Victoria Police at the time.
- 76 The OPI was to provide support to Taskforce Petra given those security issues and the nature of the investigation. The OPI was party to a Memorandum of Understanding with Victoria Police and provided surveillance, technical capability and investigators for the investigation.
- 77 Initially the OPI only monitored the progress of the investigation being conducted by Taskforce Petra. However, the OPI became interested in the possibility that it could draw information from the Taskforce Petra investigation that would assist in thoroughly examining the leak of IR44 and assist in the broader oversight over the integrity of Victoria Police in relation to the Taskforce Petra investigation.
- 78 A Steering Committee was formed, led by Deputy Commissioner Overland, to provide oversight over the Taskforce Petra investigation. It was initially comprised of Assistant Commissioner Cornelius, Detective Superintendent Paul Hollowood, Detective Acting Inspector Shane Connell, [REDACTED] and me.
- 79 The Petra Steering Committee met weekly to discuss the investigation.



- 80 On 25 June 2007 the OPI and Victoria Police entered into a Joint Agency Agreement in respect of Taskforce Petra [VPL.0005.0012.2435].
- 81 I sat on the Petra Steering Committee as a representative of the OPI. The Joint Agency Agreement records the Petra Steering Committee as being responsible and accountable for the overall conduct of the operation, including:
- *“developing a concept of the operation, including operational objectives;*
  - *maintaining coordination of the operation and enhancing cooperation;*
  - *information sharing between participating agencies;*
  - *monitoring results of the Operation against the objectives;*
  - *ensuring the efficient collection and timely dissemination of information and intelligence; and*
  - *responsibility for the engagement of other Agencies to assist with the investigation.”*
- 82 The Petra Steering Committee received weekly updates about the progress of the Taskforce Petra investigation.
- 83 At a meeting of the Petra Steering Committee on 28 May 2007, I became aware that Carl Williams had provided a statement in which he referred to Ms Gobbo by name. At this time, while I knew that Ms Gobbo was a lawyer practising in criminal law, I was unaware that she was informer 3838 or a human source.

#### **Taskforce Purana**

- 84 When I became Assistant Commissioner Crime in April 2011, my command included the Crime Department's various squads and taskforces, one of which was Taskforce Purana.
- 85 As I set out below, when dealing with the Taskforce Driver investigation, I became aware in or about November 2011 that investigators from Taskforce Purana were receiving intelligence from Ms Gobbo's handlers relating to organised crime figures in Melbourne.
- 86 I did not participate directly in Taskforce Purana.

#### **Taskforce Driver**

- 87 When I commenced as Assistant Commissioner Crime on 27 April 2011, I became involved in the Taskforce Driver Steering Committee.
- 88 Taskforce Driver was formed in around April 2010, to investigate the circumstances around the murder of Carl Williams and it dealt with the safety and security of Ms Gobbo. Assistant Commissioner Jeff Pope was at that time the Chair of the Steering Committee.

- 89 On or around 24 October 2011, Detective Superintendent Doug Fryer told me that Ms Gobbo had asserted that she had had sex with Assistant Commissioner Pope some years ago. I informed Assistant Commissioner Pope of this allegation and he denied it. On 24 or 25 October 2011, we went together to see Deputy Commissioner Cartwright to inform him of Ms Gobbo's allegation.
- 90 Deputy Commissioner Cartwright informed us that this matter would be reported to the ESD for investigation and that until such time as the matter had been properly examined, Assistant Commissioner Pope should not participate in the Driver Steering Committee.
- 91 I subsequently received a memorandum from Deputy Commissioner Cartwright in respect to the allegation made by Ms Gobbo about Assistant Commissioner Pope [VPL.0002.0002.0074].
- 92 That document also dealt with concerns regarding the safety of "Witness F" (Ms Gobbo) and her involvement in the prosecution of Paul Dale for giving false evidence to the Australian Crime Commission (ACC). I deal with these matters in paragraphs 124 and 146 to 182 below.
- 93 I understand that the investigation in relation to the allegations concluded that there was no evidence that Assistant Commissioner Pope had a sexual relationship with Ms Gobbo.

#### **Comrie Review**

- 94 In November 2011, Victoria Police engaged former Chief Commissioner Neil Comrie to undertake a review relating to the use of Ms Gobbo as a human source.
- 95 Because of my role on the Taskforce Driver and Taskforce Petra Steering Committees, I took the decision that I should stay removed from the Comrie Review. In relation to:
- (a) the Petra Steering Committee, it had made the decision to transition Ms Gobbo from a source to a witness; and
  - (b) the Driver Steering Committee, it had amongst other things, had some involvement in liaising with the Witness Protection Unit about Ms Gobbo entering into the witness security program (**Witsec**).
- 96 Mr Comrie completed his review on Ms Gobbo's registration and handling as a human source on 30 July 2012, and made 26 separate recommendations [VPL.0005.0001.0001].
- 97 The implementation of the recommendations made in Mr Comrie's report was handled by Deputy Commissioner Cartwright and the legal services division of Victoria Police. Operation Loricated was the name given to the process of implementing the recommendations made in the Comrie Report.

### Use of Ms Gobbo as a human source (Questions 3, 4 and 5)

#### Question 3

- 98 Given the passage of time, the exact sequence of events described below is not clear to me.
- 99 To the best of my recollection, I first learned that Ms Gobbo was providing information to Victoria Police at the time of Ms Gobbo's examination before Mr Fitzgerald, which commenced on 19 July 2007, as described below.
- 100 Prior to this date Mr Fitzgerald had received a delegation from the Director of the OPI to conduct OPI hearings in relation to the murder of the Hodsons and the leak of IR44.
- 101 When I became aware of the content of Carl Williams' statement referred to in paragraph 83 above, I briefed the Director of the OPI who, together with the OPI's legal team, contacted Mr Fitzgerald.
- 102 The Director later advised me that a summons would be issued to Ms Gobbo to attend an OPI hearing, presided over by Mr Fitzgerald.
- 103 I attended a Taskforce Petra Steering Committee meeting on 16 July 2007, at which it was mentioned that OPI hearings were to take place on 19 and 20 July 2007.
- 104 On 19 July 2007, Ms Gobbo attended an OPI hearing before Mr Fitzgerald.
- 105 To the best of my recollection, on the day of the hearing, Superintendent Gavan Ryan came to see me and advised me that Ms Gobbo was a human source for Victoria Police. He said that Victoria Police was concerned that if the evidence disclosed that Ms Gobbo was a human source this would impact on her cooperation with police. This was because Ms Gobbo had said she was concerned about her role as a human source being disclosed on a wider basis, including to the OPI. He said Ms Gobbo was worried about information about her alleged sexual relationships with a number of police members being disclosed. Superintendent Ryan said there were concerns for Ms Gobbo's safety. Superintendent Ryan asked me whether the hearings would proceed in light of this information.
- 106 I believe I became aware that Ms Gobbo was human source 3838 as a result of the conversation with Superintendent Ryan. During the Taskforce Petra Steering Committee meetings there would be a briefing by the Investigator In Charge of the Operation. From time to time those briefings would make mention of the investigators using the human source with code name "3838". As far as I can recall, prior to 19 July 2007, 3838 was the only human source referred to in the Taskforce Petra Steering Committee meetings.
- 107 Because 3838 was the only human source of which I was aware in relation to Taskforce Petra, and because of Superintendent Ryan's involvement in

that Taskforce, when he told me that Ms Gobbo was a human source, I concluded that human source 3838 was Ms Gobbo.

- 108 I said to Superintendent Ryan that I needed to discuss this matter with the Director and that we would get back to him.
- 109 I went to see the Director and told him what Superintendent Ryan had said to me. I expressed the view that the hearing should continue. I discussed with the Director whether it might be possible that he explore with Mr Fitzgerald whether he could conduct the examination in a manner that could elicit the information being sought, without jeopardising the ongoing cooperation by Ms Gobbo with Victoria Police. The Director agreed to do so.
- 110 I believe the Director spoke with Mr Fitzgerald prior to the hearing commencing. While I do not have a clear recollection, I may also have spoken to Mr Fitzgerald with the OPI legal team prior to the hearing. I cannot recall whether the Director told me that he had disclosed to Mr Fitzgerald that Ms Gobbo was a human source, although I understood at the time that he did.
- 111 The examination of Ms Gobbo proceeded on 19 July 2007. Superintendent Ryan was not present in the room in which the examination was conducted but observed it on a screen in an office at the OPI.
- 112 The Director met with Mr Fitzgerald after the hearing and I attended that meeting. Mr Fitzgerald considered that the evidence given by Ms Gobbo was not truthful, and he had concerns about the fact that she had disclosed confidential information, namely her summons to appear at the OPI.
- 113 At the meeting, I reiterated my view referred to in paragraph 109 above, about the approach to the questioning.
- 114 On or around 14 August 2007, I saw a memorandum prepared by Mr Livermore (Counsel Assisting in the hearing before Mr Fitzgerald at the OPI), advising on whether Ms Gobbo had told the truth in relation to some matters during her examination. I do not recall the details of that advice.
- 115 Ms Gobbo was recalled to a second hearing before Mr Fitzgerald on 17 August 2007, at which Mr Fitzgerald put to Ms Gobbo that she had not been truthful in her previous appearance before the OPI. I do not recall the specifics of the second hearing or whether Superintendent Ryan was present.
- 116 I remember there was to be a third hearing before Mr Fitzgerald but it did not eventuate. I cannot recall why the third hearing did not proceed.

#### Question 4

- 117 I answer this question based upon the belief I have now.
- 118 I believe that the following organisations and persons were aware that Ms Gobbo was providing information to Victoria Police prior to the end of 2012.

- 119 Arising from the matters I refer to at paragraphs 99 to 116 above, I believe the following people had this awareness in relation to Ms Gobbo's OPI hearings in July and August 2007:
- (a) Superintendent Ryan;
  - (b) Director of the OPI, George Brouwer;
  - (c) Mr Fitzgerald QC;
  - (d) Garry Livermore, Counsel Assisting in the OPI proceedings; and
  - (e) Greg Carroll, head of the legal department at the OPI.
- 120 Arising from my involvement in the Steering Committee of Taskforce Petra from April 2007, I believe the following persons had this awareness:
- (a) Shane O'Connell;
  - (b) Deputy Commissioner Overland;
  - (c) Superintendent Ryan;
  - (d) Steve Smith;
  - (e) Rod Wilson;
  - (f) Steve Waddell;
  - (g) Assistant Commissioner Cornelius; and
  - (h) Assistant Commissioner Dannye Moloney.
- 121 Arising from my involvement in the Board of Management of Taskforce Briars from February 2007, I believe the following persons had this awareness:
- (a) Deputy Commissioner Overland;
  - (b) Assistant Commissioner Cornelius;
  - (c) Rod Wilson;
  - (d) Steve Waddell; and
  - (e) Ron Iddles.
- 122 Arising from my involvement in the Steering Committee for Taskforce Driver from April 2011, I believe the following persons had this awareness:
- (a) Fin McRae, Director of Legal Services;
  - (b) Detective Superintendent Fryer;
  - (c) Assistant Commissioner Pope;
  - (d) Deputy Commissioner Cartwright;
  - (e) Detective Superintendent Paul Sheridan;
  - (f) Tony Biggin;
  - (g) Detective Inspector John O'Connor; and

(h) Michael Frewen.

- 123 Arising from their roles and responsibilities, I believe various members of the SDU who handled Ms Gobbo whilst she was a human source, had this awareness.
- 124 During the prosecution of Paul Dale by the Commonwealth Director of Public Prosecutions (CDPP) with respect to him giving false evidence to the ACC, I believe Krista Breckweg and Shane Kearne became aware that Ms Gobbo had been a human source for Victoria Police.
- 125 As I set out in more detail below, on 7 November 2011, I received information from Detective Superintendent Sheridan in the form of a document prepared by Detective Inspector O'Connell, listing the persons in respect of whom Ms Gobbo had provided information to Victoria Police. I directed Mr McRae to inform the Director of the Office of Public Prosecutions, John Champion, that Victoria Police was using a human source who was a lawyer and it was undertaking an independent investigation as to the nature and extent of the information provided by that source. Mr McRae later confirmed to me that he had done so.

#### **Question 5**

- 126 I do not know who was involved in any initial authorisation of the use of Ms Gobbo as a human source.
- 127 Based upon the belief I have now, the following people were involved in the continued authorisation of the use of Ms Gobbo as a human source:
- (a) Deputy Commissioner Overland; and
  - (b) Assistant Commissioner Pope and others in the authorisation chain (Intelligence and Covert Services Division, which included the Source Development Unit branches).

#### **Question 6: Personal contact with Ms Gobbo**

- 128 I recall being cross-examined by Ms Gobbo when I was an AFP Officer in a drug trial. I do not recall when this was or any further details.
- 129 This is the only personal contact I have had with Ms Gobbo.

#### **Question 7: Information received by Victoria Police from Ms Gobbo, 1995 to 2012**

- 130 I have outlined at paragraphs 99 to 116 above all I can recall in relation to the OPI investigation into IR44 in which Ms Gobbo gave evidence before Mr Fitzgerald QC. I cannot recall any information she provided. No persons were charged as a result of that investigation.
- 131 In relation to Taskforce Petra, I am aware that Ms Gobbo provided information relating to a conversation she had had with Paul Dale, in which



he confirmed that statements by Carl Williams implicating Dale in the murder of the Hodsons were accurate.

- 132 I became aware of this information when there were discussions about using Ms Gobbo as a witness in the prosecution of Mr Dale for the murder of the Hodsons. I deal with this issue in more detail below.
- 133 Mr Dale was charged with the murder of the Hodsons. However, following the murder of Carl Williams on 19 April 2010, the prosecution of Mr Dale was withdrawn.
- 134 As to my involvement in other investigations, I do not recall whether any information was provided by Ms Gobbo.

**Question 8: Other assistance given to Victoria Police by Ms Gobbo**

- 135 I have no knowledge or belief of any other assistance provided by Ms Gobbo to Victoria Police after 2009, other than as a potential witness.

**Concerns in relation to the use of Ms Gobbo as a human source (Questions 9 and 10)**

**Question 9**

- 136 Other than the matters I refer to in answer to question 10 below, I am not aware of any concerns being raised by the AFP, the Office of Public Prosecutions (OPP) or the CDPP with respect to the use of a legal practitioner as a human source.

**Question 10**

- 137 The first time I became aware of any concern as to the use of Ms Gobbo as a human source was during my conversation with Superintendent Ryan on 19 July 2007. I have set out what I recall about this conversation, and the concerns that Superintendent Ryan raised with me at that time, in paragraphs 105 to 108 above.
- 138 In about November 2008, the Taskforce Petra Steering Committee considered whether Ms Gobbo should be transitioned from her status as a registered human source to a witness in the prosecution of Paul Dale for the murder of the Hodsons.
- 139 Deputy Commissioner Overland was in favour of using Ms Gobbo as a witness and I shared this view. I was aware from discussions at the Taskforce Petra Steering Committee meetings that members of the Source Development Unit were against using Ms Gobbo as a witness. I understood the SDU's concern was for the safety of Ms Gobbo should she transition from a human source to a witness.
- 140 While it was unusual to transition a human source to a witness, I shared Mr Overland's view that it should occur in this case, because I believed Ms Gobbo's evidence was crucial to the prosecution of Dale. I believed that

any evidentiary issues resulting from Ms Gobbo's position as a lawyer would be addressed in the normal manner in any subsequent court proceedings.

- 141 I believed that Witsec could meet concerns about Ms Gobbo's safety.
- 142 Ms Gobbo provided a statement to Taskforce Petra in January 2009 for the purposes of her being a witness.
- 143 I was aware that after Ms Gobbo had provided the statement, she was negotiating with the Witness Protection Unit about the terms on which she would enter into Witsec.
- 144 From time to time at Taskforce Petra Steering Committee meetings, we were updated as to the status of these negotiations. Ultimately Ms Gobbo did not enter into full witness protection.
- 145 Following the murder of Carl Williams in 2010, the prosecution of Dale for the murder of the Hodsons was withdrawn and the issue about Ms Gobbo being a witness in those proceedings fell away.
- 146 In about January 2011, Paul Dale was charged with giving false evidence to the ACC. Dale's lawyers issued a subpoena to Victoria Police.
- 147 There were discussions and meetings between Victoria Police and the CDPP about the scope of materials to be produced in response to the subpoena, claims for public interest immunity and relevance, and the procedure for counsel to review the documents.
- 148 It was also proposed by the CDPP that Ms Gobbo be called as a witness in support of the prosecution of Dale in the ACC proceedings.
- 149 On 19 October 2011, I received an email from Detective Superintendent Fryer, forwarding me an email from Mr Frewen. That email included an email from Ms Breckweg of the CDPP about the scope of disclosure of material required by the prosecution relating to the use of Ms Gobbo as a witness [VPL.6071.0073.6622].
- 150 In his email, Mr Fryer said *"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"*.
- 151 In response to Detective Superintendent Fryer's email, I asked him to arrange a meeting with the CDPP and to ensure that Mr Kearne was present at the meeting.
- 152 On 20 October 2011, Detective Superintendent Fryer sent me a letter that Ms Gobbo had sent to Boris Buick on 17 October 2011 [VPL.6027.0015.3744 and VPL.0010.0001.0001 at 0072 to 0073]. Detective Superintendent Fryer noted that this letter would be discussed at the next Driver Steering Committee meeting on 21 October 2011.
- 153 On 27 October 2011, I attended a meeting of the Taskforce Driver Steering Committee. At that meeting, there was discussion about a letter from Boris

Buick of the same date, with respect to Ms Gobbo's security should she be called as a witness at the committal hearing of Dale. That committal hearing was scheduled to commence on 7 November 2011 [GLA.0001.0001.0093 at 0112 and VPL.0010.0001.0001 at 0070 to 0071].

- 154 On 2 November 2011, I attended a meeting of the Taskforce Driver Steering Committee. The issue of whether the prosecution could proceed against Mr Dale without using Ms Gobbo as a witness was discussed [GLA.0001.0001.0093 at 0113].
- 155 On 2 November 2011, I was provided for the first time, with a copy of an advice by Mr Gerard Maguire of Counsel dated 4 October 2011.
- 156 Following receipt of Mr Maguire's advice on 2 November 2011, I understood the risks identified by Mr Maguire included the following:
- (a) disclosure of materials, including relating to Ms Gobbo's use as a human source;
  - (b) in the context of that disclosure, the application of public interest immunity;
  - (c) the safety of Ms Gobbo;
  - (d) issues arising as a consequence of her professional standing, including whether she was providing legal advice to Dale and others at the same time as information was being provided to police; and
  - (e) whether convictions of others would be challenged on the basis that they had been improperly obtained.
- 157 Mr Maguire's advice suggested that:
- (a) these issues be raised with senior management within Victoria Police for their consideration in the context of Dale's committal; and
  - (b) urgent consideration be given to appropriate disclosure.
- 158 On the same date, I was copied into an email from Detective Superintendent Fryer to Detective Superintendent Sheridan [VPL.0005.0013.1158]. In that email, Detective Superintendent Fryer stated that Mr Maguire's advice had "*highlighted to me and the steering committee there is much we (Driver) don't know about the sources tasking and activities, but ironically at the same time trying to cover all areas of risk, liability and reliability as a witness*".
- 159 In the email, Detective Superintendent Fryer asked for Detective Superintendent Sheridan's approval for Boris Buick, Mr Frewen and Detective Superintendent Fryer to have access to the log that Mr Maguire had inspected for the purposes of his advice, so that the Taskforce Driver Steering Committee would be "*fully aware of the complex issues*".

- 160 I also met with Deputy Commissioner Cartwright and Mr McRae on 3 November 2011. I indicated that Deputy Commissioner Cartwright should discuss with Assistant Commissioner Pope, the need for an independent review about how "Witness F" had been handled and the risks this presented [GLA.0001.0001.0093 at 0114].
- 161 I recall at that meeting, there was discussion about Mr Maguire's advice and issues arising from it about governance of human sources who were legal practitioners. We discussed the fact that co-operation of Witness F, who I knew to be Ms Gobbo, was broader than we had previously understood.
- 162 In my role as Assistant Commissioner Crime, I needed to properly understand the risks arising from the use of Ms Gobbo as a human source. The risks included whether any information had been passed to investigators that could have compromised prosecutions.
- 163 At that meeting there was a discussion about informing the OPP of the matters raised in Mr Maguire's advice. I knew that there was an upcoming court matter involving one of the Mokbels and I wanted to make sure that the OPP was made aware of Mr Maguire's advice including what he had said about the Mokbel prosecution. It was agreed that Mr McRae would discuss the matter with the Director of the OPP, John Champion.
- 164 Later in the week, Mr McRae informed me that he had spoken to Mr Champion, and thereafter he reported to me orally from time to time on his communications with the OPP on this matter.
- 165 On 3 November 2011, I was copied into an email from Detective Superintendent Fryer to Mr Frewen and Boris Buick [VPL.0005.0013.1153]. That email discusses a proposed attendance by the CDPP to review materials for the purposes of assessing what was required to be produced in the Dale prosecution. In that email, Detective Superintendent Fryer says:
- "It is the view of Graham and I that if the DPP form the view of any of the material is discoverable and relevant and must be presented to the defence, then we request the DPP to proceed on the 6 charges (only) which don't require "F" as a witness. Our rationale being any disclosure or even the potential of disclosure is an unacceptable risk to "F" and we have a duty of care to "F" to ensure the exposure doesn't occur. In principal I believe the DPP agree to this proposition."*
- 166 This accurately reflected my view that if disclosure of material relating to Ms Gobbo as a human source was made, this would give rise to an unacceptable risk to her safety and for that reason, she could not be used as a prosecution witness.
- 167 On 3 or 4 November 2011, I asked Detective Superintendent Fryer to organise an examination of the material relating to the use of Ms Gobbo as

- a source. I asked that this be done over the weekend so that the report would be ready on Monday 7 November 2011.
- 168 On 4 November 2011, I had discussions throughout the afternoon regarding Ms Gobbo's appearance at the Dale committal proceedings on the ACC charges. I spoke with Boris Buick and said to him that I did not want Ms Gobbo called because of concerns I had about her safety if she appeared as a witness [GLA.0001.0001.0093 at 0115].
- 169 On that day, I sent an email to Assistant Commissioner Pope, Ms Breckweg and others stating my position that the committal proceedings should only proceed on the counts that did not require Ms Gobbo to be a witness [VPL.6031.0017.1009].
- 170 Later that day, I had a teleconference with Mr Kearne and Ms Breckweg. The discussion resulted in agreement that we would attempt to prepare a list of documents that may be required to be disclosed to the defence and then examine the list from a risk perspective prior to making any final decision. I instructed Assistant Commissioner Pope that we should take steps to immediately prepare this list.
- 171 Following the telephone conference on 4 November 2011, I received an email from Ms Breckweg [VPL.6031.0016.9264]. Ms Breckweg's stated intention to make disclosure of documents to the defence did not reflect my understanding of the agreement referred in paragraph 170 above.
- 172 On the morning of 7 November 2011, I met with Detective Superintendent Sheridan and he gave me a document that had been prepared by Detective Inspector O'Connor, following my request referred to in paragraph 167. I was shocked by the contents of this document. It listed the people in respect of whom information had been provided to Victoria Police by Ms Gobbo as a human source. The list included many prominent figures in the Victorian criminal underworld [VPL.0010.0001.0001 at 0075 to 0082 and GLA.0001.0001.0093 at 0016].
- 173 I was even more concerned about the use of Ms Gobbo as a witness in the Dale committal proceedings when I saw the extensive list of names in this document, and when Detective Superintendent Fryer told me that the materials containing details of Ms Gobbo's cooperation were stuffed into filing cabinets in no discernible order and in a manner that would not give you confidence that they were properly managed.
- 174 Also on 7 November 2011, I received an email from Detective Superintendent Fryer updating me on the status of discussions with Ms Gobbo and the officers responsible for Witsec [VPL.0010.0001.0001 at 0083].
- 175 On 8 November, I received a briefing note from Detective Superintendent Fryer requesting confirmation that Ms Gobbo be withdrawn as a witness in the Dale prosecution [VPL.0010.0001.0001 at 0084 to 0085].

- 176 At 7.30 am on 8 November 2011, I met with Detective Superintendent Fryer, Boris Buick, Mr Frewen, Detective Superintendent Sheridan and Assistant Commissioner Pope who attended by telephone. At that meeting, we discussed the risks to Ms Gobbo if she appeared as a witness at the Dale prosecution if disclosure of the above matters was made. We also discussed issues in relation to obligations of disclosure. I decided that Ms Gobbo should be withdrawn as a witness in those proceedings. I said that I would meet with the CDPP to inform them of this decision [GLA.0001.0001.0093 at 0117].
- 177 At 10.00 am on 8 November 2011, Detective Superintendent Fryer and I met with Mr Kearne and Ms Breckweg of the CDPP. I officially advised the CDPP that Victoria Police wanted Ms Gobbo withdrawn as a witness from the Dale prosecution due to concerns about her safety [GLA.0001.0001.0093 at 0118 to 0119]
- 178 During the meeting, Ms Breckweg indicated that she wanted the committal to proceed. I made clear that Victoria Police's position was that Ms Gobbo was not to appear as a witness. Mr Kearne said he would get back to me with the CDPP's position later that day.
- 179 At 1.00 pm on 8 November 2011, I met with Deputy Commissioner Cartwright and Mr McRae. I explained the position I had taken with the CDPP in relation to Ms Gobbo to them and they agreed with my approach [GLA.0001.0001.0093 at 0120].
- 180 Also on that day, I had telephone calls with Mr Jim Duffy from the ACC, Mr Kearne, Detective Superintendent Fryer and Deputy Commissioner Cartwright about withdrawing Ms Gobbo as a witness from the Dale prosecution. I was advised by Mr Kearne that having received Victoria Police advice as to the risks to Ms Gobbo and having consulted with his superiors in Canberra, the CDPP position was that they would not be calling Ms Gobbo as a witness in the Dale prosecution.
- 181 Later that day, I sent a letter to Mr Kearne confirming the position of Victoria Police that Ms Gobbo should be withdrawn as a witness in the Dale prosecution [VPL.0010.0001.0001 at 0089].
- 182 I instructed Detective Superintendent Fryer to prepare a letter to Ms Gobbo formally advising her of the decision not to call her as a witness [VPL.0010.0001.0001 at 0086 to 0087].
- 183 I attach a copy of my diary notes of 8 November 2011 [GLA.0001.0001.0093 at 0117 to 0120].
- 184 On 10 November 2011, I received an email from Detective Superintendent Fryer confirming that Dale had been committed for trial on 14 charges. I attach this email and emails following from it on that day [VPL.6031.0017.7324]. Also on that day, I received an email from Deputy Commissioner Lay, in relation to the committal of Dale [VPL.6022.0040.0739].



- 185 As stated in paragraph 94 above, in November 2011 Victoria Police engaged former Chief Commissioner Neil Comrie to undertake a review relating to the use of Ms Gobbo as a human source to address among other things:
- (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 practices utilised, having regard to the particular professional standing of 3838.

#### **Question 11**

- 186 I refer to my answer to question 10 above.

#### **Other relevant matters (Questions 12, 13 and 14)**

##### **Question 12**

- 187 I do not recall any other details of a human source who was subject to legal obligations of confidentiality or privilege, providing information or assistance to Victoria Police.

#### **Training**

##### **Question 13**

##### **(a) Obligations of disclosure**

- 188 In relation to the obligation of police to make disclosure to accused persons, prosecution agencies and the Courts, I do not recall the details of the training I received. I believe that basic training about the duty was provided as part of my initial training in the AFP.
- 189 I became familiar with the principles of the obligations of disclosure to accused persons of material that would go towards their guilt or innocence through on the job experience. This included preparing briefs of evidence to be provided to prosecution authorities.

##### **(b) The right of an accused person to silence**

- 190 In relation to the right of an accused person to silence, I received training when I joined the AFP. I do not recall the details.

##### **(c) The right of an accused person to a legal practitioner**

191 In relation to the right of an accused person to a legal practitioner, I  
received training when I joined the AFP. I do not recall the details.

**(d) Legal professional privilege**

192 In relation to legal professional privilege, I received general training when I  
joined the AFP. I do not recall the details.

193 My on the job experience mainly involved dealing with claims for privilege  
over materials seized during the execution of search warrants.

**(e) Public interest immunity**

194 In relation to public interest immunity, I received specific training in relation  
to search warrants, when I was a recruit.

195 I gained practical experience in relation to public interest immunity in the  
execution of search warrants.

**(f) Professional and ethical decision making**

196 I do not recall any training specifically directed to professional and ethical  
decision making.

**Question 14**

197 I have seen the statement of Assistant Commissioner Neil Paterson  
provided to this Commission. I believe that statement is an accurate record  
of the evolution of Victoria Police's policies.

198 I am confident that the current policies and procedures of Victoria Police  
with respect to the use of human sources and the disclosure of that use to  
prosecuting authorities is in accordance with the recommendations of the  
Kellam Report.

199 If the Commission would like me to address any specific issues arising out  
of the terms of reference, I am happy to do so.

  
\_\_\_\_\_  
Signature

30 August 2019  
\_\_\_\_\_  
Date