

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Friday, 17 May 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

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

Counsel for Victoria Police Mr S. Holt QC
 Ms R. Enbom
 Ms K. Argiropoulos

Counsel for State of Victoria Mr T. Kyriakou

Counsel for Nicola Gobbo Mr P. Collinson QC
 Mr R. Nathwani

Counsel for DPP/SPP Ms K. O'Gorman
 Ms A. Martin

Counsel for Tony Mokbel Mr R. Maidment QC

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1 PROCEEDINGS IN CAMERA:
10:32:12 2
10:32:13 3 COMMISSIONER: Yes Mr Maidment.
10:32:14 4
10:32:15 5 MR MAIDMENT: Commissioner, you appreciate that I was here
10:32:17 6 for a short time last Friday and was consulted in
10:32:20 7 connection with Exhibit 99.
10:32:21 8
10:32:22 9 COMMISSIONER: Yes.
10:32:22 10
10:32:23 11 MR MAIDMENT: I left after the hearing was opened and
10:32:29 12 therefore wasn't present during the balance of the evidence
10:32:32 13 given that day by Mr [REDACTED]. You will probably have been
10:32:38 14 made aware, if you [REDACTED] of [REDACTED]
10:32:44 15 [REDACTED] and indeed [REDACTED] that appeared I
10:32:48 16 think either [REDACTED]
10:32:50 17 arising from Mr [REDACTED] testimony in open hearing which
10:32:58 18 contained [REDACTED]
10:33:04 19 [REDACTED] Commission
10:33:08 20 told" and I think the [REDACTED] was used in the [REDACTED]
10:33:13 21 [REDACTED] and there were [REDACTED] and so on.
10:33:19 22 So the result of that, from Mr Mokbel's point of view, was
10:33:23 23 that [REDACTED] took the view that he needed
10:33:30 24 [REDACTED] - - -
10:33:36 25
10:33:36 26 COMMISSIONER: Bearing in mind what was happened in the
10:33:38 27 past to Mr Mokbel it's perhaps not surprising that
10:33:41 28 they - - -
10:33:42 29
10:33:43 30 MR MAIDMENT: We don't criticise Corrections Victoria for
10:33:47 31 taking that view.
10:33:48 32
10:33:48 33 COMMISSIONER: No.
10:33:48 34
10:33:49 35 MR MAIDMENT: But of course it has the effect of depriving
10:33:50 36 Mr Mokbel of the company of any other [REDACTED]. He
10:33:54 37 was in fairly tightly controlled conditions before that but
10:33:59 38 it doesn't assist [REDACTED] in that way.
10:34:04 39 So it's an unfortunate situation. I've spoken to Mr Money
10:34:09 40 of Corrections Victoria this morning and he's doing what he
10:34:12 41 can to work through the issues. Clearly we're concerned,
10:34:21 42 firstly, to protect Mr Mokbel and, secondly, to protect his
10:34:27 43 interests so far as the Commission is concerned. So two
10:34:33 44 issues arise. One, to invite the Commission to offer him
10:34:39 45 such protection as the Commission can from further
10:34:43 46 publicity of that nature. We note that the Commission has
10:34:49 47 adopted the practice of referring to some persons who are

.17/05/19

1952

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10:34:55 1 mentioned during the course of the evidence as [REDACTED],
10:35:00 2 [REDACTED], et cetera, I think it got to about [REDACTED] by
10:35:04 3 the time I left last Friday, so that certainly so far as
10:35:13 4 matters that are given in evidence about Mr Mokbel of the
10:35:21 5 [REDACTED], we would invite the Commission
10:35:26 6 to offer him the protection [REDACTED]
10:35:33 7

10:35:33 8 COMMISSIONER: Do you think - is it your submission that
10:35:35 9 that would be the best protection that the Commission could
10:35:40 10 offer to him in the circumstances?
10:35:44 11

10:35:45 12 MR MAIDMENT: That's the one I've thought of at the moment.
10:35:47 13 I haven't thought of any other at the moment. We of course
10:35:52 14 are conscious of the fact that Mr Mokbel's name will be
10:35:57 15 given in evidence on many, many occasions during the course
10:36:00 16 of the hearings and we have no wish in any way to interfere
10:36:05 17 with the proper running of the Commission.
10:36:08 18

10:36:08 19 COMMISSIONER: Yes.
10:36:09 20

10:36:09 21 MR MAIDMENT: Indeed, Mr Mokbel has given us instructions
10:36:12 22 to cooperate fully with the Commission.
10:36:14 23

10:36:14 24 COMMISSIONER: It would seem to be in his interests to do
10:36:17 25 so because - - -
10:36:18 26

10:36:18 27 MR MAIDMENT: We respectfully agree.
10:36:20 28

10:36:20 29 COMMISSIONER: The Commission is exposing material that may
10:36:23 30 be of assistance to Mr Mokbel in his current appeal.
10:36:26 31

10:36:27 32 MR MAIDMENT: Yes. The Commission will, there's enough
10:36:30 33 experience between counsel assisting and Your Honour of
10:36:35 34 these matters to be able to identify those situations where
10:36:39 35 Mr Mokbel is placed in jeopardy and/or placed in harm's
10:36:45 36 way.
10:36:45 37

10:36:45 38 COMMISSIONER: Yes.
10:36:46 39

10:36:46 40 MR MAIDMENT: It isn't going to be an easy exercise and we
10:36:49 41 understand the Commission has obviously a difficult task in
10:36:52 42 that regard.
10:36:53 43

10:36:53 44 COMMISSIONER: I have to say, on one view the fact that a
10:36:59 45 person in custody [REDACTED]
10:37:05 46 because they're [REDACTED] that he's [REDACTED]
10:37:08 47 on, you would think that would perhaps not [REDACTED]

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10:37:15 1 to [REDACTED] there'd be some kindred spirit there
 10:37:24 2 amongst them that it's okay [REDACTED]
 10:37:28 3 That's a different matter to [REDACTED] or
 10:37:30 4 [REDACTED]
 10:37:31 5
 10:37:31 6 MR MAIDMENT: Indeed, it seems [REDACTED] at the
 10:37:40 7 [REDACTED] in order to [REDACTED]
 8 [REDACTED]
 9
 10 COMMISSIONER: That's right.
 11
 10:37:44 12 MR MAIDMENT: Nevertheless it seems that that's not the way
 10:37:48 13 goals work and Corrections have been obviously particularly
 10:37:48 14 in Mr Mokbel's case because of the recent history of an
 10:37:52 15 attempt on his life and - not arising from matters in this
 10:37:56 16 Commission I might say, of course, but nevertheless they're
 10:38:00 17 particularly sensitive about his situation at the present
 10:38:04 18 time. I don't imagine there would be many other occasions
 10:38:12 19 upon which Mr Mokbel [REDACTED] in any
 10:38:17 20 shape or form but there may be other matters that arise,
 10:38:24 21 and I, of course, can't anticipate what those might be,
 10:38:27 22 where it is thought that it's appropriate to offer some
 10:38:33 23 protection to him. We are all operating pro bono. We
 10:38:43 24 can't afford to be here to protect his interests on a daily
 10:38:49 25 basis. Our plea is to offer Mr Mokbel as much protection
 10:38:55 26 as the Commission thinks appropriate and to invite counsel
 10:39:03 27 assisting and you, Commissioner, to be alive to the risks
 10:39:11 28 that evidence about him may impose.
 29
 10:39:19 30 The other matter that I wanted to raise was the treatment
 10:39:24 31 of documents such as Exhibit 99 which, in our submission,
 10:39:33 32 is a document which I think legal professional privilege
 10:39:41 33 attaches. We understand of course the Commission can go
 10:39:43 34 behind legal professional privilege but nevertheless we'd
 10:39:49 35 invite the Commission not to place material which does have
 10:39:52 36 legal professional privilege attached to it or even
 10:39:59 37 professional confidentiality, to place that material in the
 10:40:02 38 public domain. Mr Mokbel doesn't waive his legal
 10:40:07 39 professional privilege in relation to that document or
 10:40:10 40 similar documents. No objection, of course, to the
 10:40:17 41 Commission having the material and using it appropriately,
 10:40:21 42 but we invite the Commission to ensure that that sort of
 10:40:27 43 material does not get into the public domain.
 10:40:30 44
 10:40:30 45 COMMISSIONER: Is Exhibit 99 on the public, on the - - -
 10:40:35 46
 10:40:35 47 MR WINNEKE: It's not, Commissioner. I think what occurred

.17/05/19

1954

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10:40:37 1 was that because that application had been telegraphed or
10:40:42 2 conveyed to us.
10:40:44 3
10:40:44 4 COMMISSIONER: Yes, and indeed the legal team assisting the
10:40:48 5 Commission flagged that potential issue.
10:40:50 6
10:40:51 7 MR WINNEKE: Yes.
10:40:51 8
10:40:51 9 COMMISSIONER: That there could be an argument of LPP in
10:40:54 10 respect of it in terms of Mr Mokbel.
10:40:59 11
10:40:59 12 MR WINNEKE: That's right, Commissioner. As a consequence
10:41:01 13 that document remains a confidential document for
10:41:05 14 reasons - - -
10:41:05 15
10:41:05 16 COMMISSIONER: Have I actually made an order to that
10:41:07 17 effect?
10:41:08 18
10:41:09 19 MR WINNEKE: I don't know what the order was but my
10:41:13 20 understanding is, and perhaps this can be checked, but that
10:41:15 21 exhibit is not on the public website.
10:41:18 22
10:41:19 23 COMMISSIONER: Can we just confirm that, that it's not on
10:41:23 24 the public website.
10:41:25 25
10:41:25 26 MR HOLT: No order was made, Commissioner, it was simply
10:41:27 27 tendered in open court.
10:41:29 28
10:41:29 29 COMMISSIONER: Simply tendered but as it been put on the -
10:41:29 30 it probably hasn't been put on the website because there
10:41:32 31 were concerns. The Commission had concerns about the LPP
10:41:35 32 claim.
10:41:36 33
10:41:37 34 MR WINNEKE: I don't believe it has. And I believe it
10:41:40 35 wasn't for the very reason that we wanted Mr Mokbel's
10:41:43 36 representatives to have the opportunity to make a
10:41:45 37 submission.
10:41:45 38
10:41:45 39 COMMISSIONER: Just confirm that now if we can. It's not
10:41:49 40 up. We've confirmed that it's not up. We did actually
10:41:58 41 make an order, I did make an order at the time that it
10:42:01 42 wasn't to go into the public domain before Mr Mokbel's
10:42:04 43 lawyers got an opportunity to comment on it.
10:42:07 44
10:42:07 45 MR MAIDMENT: Yes, I do seem to recall Your Honour making
10:42:09 46 that order now that you mention it. We're grateful for
10:42:15 47 that. We'd invite the Commissioner to make that order a

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10:42:21 1 permanent order, or at least until such time as we get
10:42:28 2 another opportunity of being heard if the Commission takes
10:42:31 3 the view that it should go into the public domain.
10:42:34 4
10:42:34 5 COMMISSIONER: Is there room, Mr Winneke, for a redacted
10:42:38 6 document to go up?
10:42:40 7
10:42:41 8 MR WINNEKE: I'm sorry, Commissioner?
10:42:42 9
10:42:43 10 COMMISSIONER: Is there room for a redacted document to go
10:42:45 11 up with the privileged information not included? I'm just
10:42:51 12 trying - - -
10:42:51 13
10:42:52 14 MR WINNEKE: I must say I hadn't considered the redactions.
10:42:54 15 It may well be we could do that. I think Mr [REDACTED]
10:42:59 16 evidence was given - that evidence was given in private is
10:43:02 17 my recollection.
10:43:02 18
10:43:03 19 COMMISSIONER: Yes. There's no intention for that evidence
10:43:08 20 to be - - -
10:43:10 21
10:43:10 22 MR WINNEKE: I think like all of the transcripts of
10:43:12 23 evidence which have been given in private, there is a
10:43:17 24 process of going through it, and I know it's a process
10:43:20 25 which is perhaps too lengthy, but a process of going
10:43:23 26 through to it to determine which parts, if any, can go on
10:43:27 27 to the public website. At the moment that hasn't been
10:43:30 28 completed and clearly consideration at this stage hasn't
10:43:34 29 been given to the document, as to which parts of it can, if
10:43:42 30 any, go to the website. Perhaps I can have some
10:43:45 31 discussions with Mr Maidment about that in due course.
10:43:47 32
10:43:47 33 COMMISSIONER: In due course. Yes, all right. It will
10:43:49 34 remain confidential until the relevant represented parties
10:43:55 35 have agreed on a redacted form that can be published on the
10:43:59 36 website. So that takes care of that issue.
10:44:05 37
10:44:05 38 MR MAIDMENT: That takes care of that. The other matter
10:44:09 39 that concerns us, of course, is the transcript of the open
10:44:14 40 hearing [REDACTED] where the evidence was given which gave
10:44:19 41 rise to [REDACTED] and we submit that that could be
10:44:25 42 redacted. I don't think it's on the website at this stage.
10:44:29 43
10:44:29 44 COMMISSIONER: No, well actually you're lucky that Victoria
10:44:35 45 Police has been so recalcitrant and slow that it hasn't got
10:44:39 46 up yet.
10:44:40 47

.17/05/19

1956

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10:44:40 1 MR MAIDMENT: Perhaps we are. I've only just received
10:44:42 2 these instruction and came as soon as I received them, so
10:44:46 3 there hasn't been any delay on our part, but nevertheless
10:44:51 4 those instructions - I have received those instructions and
10:44:55 5 we would ask that the transcript be redacted not to reveal
10:45:00 6 the identity of Mr Mokbel. That would obviously require
10:45:13 7 his name being removed.
10:45:15 8
10:45:16 9 COMMISSIONER: That's only in the context of [REDACTED]
10:45:18 10 [REDACTED]
10:45:20 11
10:45:21 12 MR MAIDMENT: Yes.
10:45:21 13
10:45:21 14 COMMISSIONER: That's the only - - -
10:45:23 15
10:45:23 16 MR MAIDMENT: Yes, that's right.
10:45:24 17
10:45:24 18 COMMISSIONER: So you're asking that he be given a
10:45:26 19 pseudonym - really your application is that he be given a
10:45:30 20 pseudonym to be used in the Commission whenever his name is
10:45:34 21 used [REDACTED]
10:45:39 22 [REDACTED]
10:45:41 23
10:45:41 24 MR MAIDMENT: Yes. Or, and there are so many different
10:45:49 25 shades that are likely to emerge here, or any other
10:45:54 26 evidence which the Commission feels is likely to place him
10:46:00 27 in harms way. Now that may not arise at all outside the
10:46:09 28 realms [REDACTED], but I haven't
10:46:18 29 stretched my imagination to think of other scenarios which
10:46:22 30 might have the same effect, even though they might not
10:46:26 31 arise in the same way. We, of course, will be more than
10:46:36 32 happy to cooperate with the Commission through counsel
10:46:42 33 assisting or otherwise in discussing any concerns in
10:46:48 34 advance of the evidence being given or arising during the
10:46:55 35 course of the proceedings. At least one of our team will
10:47:01 36 be available and we'll make sure that counsel assisting is
10:47:06 37 aware of all relevant telephone numbers. It's a big ask,
10:47:15 38 if I may say so, but these things do have life and death
10:47:23 39 consequences and we simply invite the Commission to
10:47:29 40 exercise its discretion as best it can and be vigilant in
10:47:35 41 all the circumstances, as ordinarily a court would in
10:47:41 42 [REDACTED] a person to whom public interest
10:47:53 43 immunity applies and in respect of whom there are concerns
10:48:00 44 about a person coming into harms way.
10:48:04 45
10:48:06 46 COMMISSIONER: I'm just thinking a little bit outside the
10:48:09 47 square here. Would it - and I'm not saying that this will

.17/05/19

1957

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10:48:14 1 happen - but would it be helpful to your client if there
10:48:18 2 was a statement from the Commission confirming that there
10:48:23 3 was no evidence led to suggest that [REDACTED]
10:48:30 4 [REDACTED]
10:48:40 5 [REDACTED]
10:48:43 6
10:48:44 7 MR MAIDMENT: Would you allow me to take instructions
10:48:45 8 before answering that question?
10:48:47 9
10:48:48 10 COMMISSIONER: And I also would need to hear from the other
10:48:50 11 parties at the Bar table as to whether that would be
10:48:53 12 appropriate.
10:48:53 13
10:48:54 14 MR MAIDMENT: Yes.
10:48:54 15
10:48:54 16 COMMISSIONER: It may or may not be helpful. It might
10:48:57 17 highlight it. On the other hand, it might be a clear
10:48:59 18 statement putting things in perspective which might help
10:49:02 19 him [REDACTED] faster.
10:49:07 20
10:49:08 21 MR MAIDMENT: That's our concern. It may also be helpful
10:49:11 22 if I speak to Mr Money again, who's the representative of
10:49:16 23 Corrections who's apparently dealing with the matter, about
10:49:20 24 that and to the extent to which - - -
10:49:21 25
10:49:22 26 COMMISSIONER: Perhaps also you might be able to find from
10:49:25 27 them whether there is some sort of statement the Commission
10:49:27 28 could make that would place him in a better position.
10:49:30 29
10:49:31 30 MR MAIDMENT: Yes. Noting, of course, that the assertion
10:49:33 31 was second hearsay in any event, it came from Gobbo
10:49:37 32 to - - -
10:49:38 33
10:49:38 34 COMMISSIONER: Yes, a statement along those lines might be
10:49:40 35 of assistance.
10:49:41 36
10:49:41 37 MR MAIDMENT: Yes. We would like to - - -
10:49:46 38
10:49:46 39 COMMISSIONER: Explore that.
10:49:48 40
10:49:49 41 MR MAIDMENT: - - - explore that, Your Honour.
10:49:50 42
10:49:50 43 COMMISSIONER: Sure.
10:49:51 44
10:49:52 45 MR MAIDMENT: Going back to the transcript, we would invite
10:49:54 46 suitable redactions to be made in the transcript to provide
10:49:58 47 [REDACTED] I think

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10:50:02 1 probably those are the only persons whose names appear
10:50:07 2 which would identify [REDACTED] as the person concerned.
10:50:11 3
10:50:11 4 COMMISSIONER: Yes. There are, of course, difficulties. I
10:50:14 5 mean Mr Mokbel is key in this narrative and it's a
10:50:21 6 narrative that does really need to be in the public domain
10:50:24 7 for a whole host of reasons so it could be that it's just
10:50:31 8 too difficult to do it and that's where a statement from
10:50:35 9 the Commission might be the better way to proceed. But
10:50:37 10 I'll hear what the others have to say.
10:50:40 11
10:50:41 12 MR MAIDMENT: Yes.
10:50:41 13
10:50:41 14 COMMISSIONER: I do appreciate the position your client's
10:50:43 15 in.
10:50:45 16
10:50:45 17 MR MAIDMENT: Yes, thank you.
10:50:46 18
10:50:46 19 COMMISSIONER: Thanks Mr Maidment. Yes Mr Winneke.
10:50:48 20
10:50:50 21 MR WINNEKE: Likewise, I appreciate that situation,
10:50:53 22 Commissioner. A couple of things I'd like to say in
10:50:58 23 response to my learned friend's submission.
10:51:00 24
10:51:00 25 COMMISSIONER: Yes.
10:51:01 26
10:51:01 27 MR WINNEKE: It appears - that what occurred was that there
10:51:05 28 was [REDACTED] that [REDACTED] Now
10:51:08 29 [REDACTED] as I understand it, which would immediately
10:51:12 30 cause Office of Corrections to be concerned and, as I
10:51:15 31 understand it, and the Commission has spoken to
10:51:19 32 Corrections, that led to a risk assessment being carried
10:51:22 33 out and whilst the risk assessment is being carried out I
10:51:28 34 assume caution is prevailing and Corrections is taking that
10:51:33 35 approach of removing Mr Mokbel from the unit which he is in
10:51:37 36 with [REDACTED] that he was otherwise mixing
10:51:40 37 with and he's not able - he wasn't able, in any event, as I
10:51:46 38 understand it, to mix with the broader prison population
10:51:49 39 but he's been taken out of that unit where there were [REDACTED]
10:51:52 40 [REDACTED] in the interim. [REDACTED]
10:51:59 41
10:51:59 42 COMMISSIONER: That risk assessment is still being
10:52:01 43 conducted, is it?
10:52:02 44
10:52:02 45 MR WINNEKE: It's still being conducted but it's not clear
10:52:05 46 how long that risk assessment is going to take. We're
10:52:07 47 instructed that in the usual course [REDACTED]

.17/05/19

1959

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10:52:16 1 [REDACTED] or in relation
 10:52:19 2 to [REDACTED] would not ordinarily be the sort of risk
 10:52:25 3 that would result in - or information which would result in
 10:52:31 4 a risk such that a person would need to be in isolation.
 10:52:35 5 That's what we understand to be the case. Now the evidence
 10:52:37 6 was to the effect that - and it arose out of Mr [REDACTED]
 10:52:44 7 evidence about his communications with Ms Gobbo. He was
 10:52:47 8 asked about an entry on 5 May in which he said, "That one
 10:52:52 9 goes a little bit wider than just Mokbel", and this is in
 10:52:57 10 the context of his investigations into [REDACTED]
 10:53:01 11 [REDACTED] He says, "That goes a bit wider than just
 10:53:04 12 Mokbel? Yes. Because [REDACTED] was brought into
 10:53:07 13 it? Yes". He says, "But I think that he wishes to speak
 10:53:10 14 to me, he wants to try and get [REDACTED]
 10:53:14 15 [REDACTED] which I've said it won't work. Right? In other
 10:53:17 16 words he would speak to you, [REDACTED] to you
 10:53:19 17 to [REDACTED] Yes. With the desire of [REDACTED]
 10:53:24 18 [REDACTED]? That's right. As far as you
 10:53:28 19 were concerned that wasn't - - -" He said, "It wasn't on,
 10:53:32 20 no".

21
 10:53:32 22 The context of that was Mr [REDACTED] is investigating
 10:53:36 23 [REDACTED]
 10:53:42 24 et cetera. On one view if that comes off the Internet well
 10:53:46 25 then you're left with [REDACTED] that [REDACTED]
 10:53:50 26 [REDACTED] but the [REDACTED] I think accurately reflected
 10:53:54 27 that transaction, that is that evidence. Our submission
 10:54:03 28 would be that in the usual course that sort of material
 10:54:10 29 wouldn't be a problem, and I assume that's why the police
 10:54:13 30 weren't suggesting that that was material which shouldn't
 10:54:19 31 be ventilated. I think the real problem arises with the
 10:54:22 32 [REDACTED] That
 10:54:25 33 may well be unfortunate.

10:54:28 34
 10:54:29 35 COMMISSIONER: It might be possible for us to, for the
 10:54:32 36 Commission to make a statement [REDACTED]
 10:54:34 37 [REDACTED] informing the public of the real
 10:54:42 38 position. But that is something that we'd probably need to
 10:54:45 39 hear from the State on and also Mr Maidment would need to
 10:54:49 40 get instructions.

10:54:54 41
 10:54:54 42 MR WINNEKE: Commissioner, can I say this: insofar as any
 10:54:58 43 further evidence along these lines, I don't anticipate that
 10:55:03 44 there will be much of that, although there may be in due
 10:55:09 45 course some suggestion of [REDACTED]
 10:55:14 46 along similar lines. If that is to occur I'm more than
 10:55:20 47 happy to raise it with Mr Maidment before it does occur to

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10:55:24 1 see how it can be dealt with and the best way of dealing
10:55:27 2 with it. As I suggest, ordinarily that sort of evidence '
10:55:34 3 wouldn't be a problem and the [REDACTED]
10:55:39 4 concerned about [REDACTED] about a
10:55:41 5 [REDACTED]
10:55:43 6
10:55:43 7 COMMISSIONER: No.
10:55:44 8
10:55:46 9 MR WINNEKE: One suspects that what's occurred here is out
10:55:48 10 of caution because of what happened to [REDACTED]
10:55:51 11 unfortunately a [REDACTED] ago. That's unfortunate,
10:55:53 12 there's no question about that. If it can be avoided so
10:55:57 13 much the better. As I say, that might well be able to be
10:56:01 14 done by having further discussions with - having
10:56:04 15 discussions with Mr Maidment should that evidence arise and
10:56:08 16 we can work out the best way of dealing with it. As to
10:56:11 17 what's occurred, it's occurred, it's out there in any event
10:56:13 18 and there doesn't seem to be much point in changing
10:56:16 19 history.
10:56:22 20
10:56:22 21 COMMISSIONER: What do you say would be - what do you say
10:56:28 22 as to the submission that he should be given, in this
10:56:31 23 context or potentially other contexts arising where he
10:56:37 24 [REDACTED]
10:56:41 25 [REDACTED]
10:56:44 26
10:56:45 27 MR WINNEKE: Commissioner, it's really a bit hypothetical
10:56:48 28 at the moment because I can't think of a context in which
10:56:51 29 it would occur and whether [REDACTED] would be
10:56:54 30 satisfactory in any event. It may well be that it
10:56:55 31 wouldn't, it would simply be obvious in the circumstances
10:56:56 32 what it's about, even if [REDACTED] is given, so it's a
10:57:00 33 bit difficult to say in the abstract whether that would be
10:57:03 34 of benefit or whether the only way to do it would be in
10:57:06 35 private. But it's conceivable that that might work or it
10:57:12 36 might not work. It really depends on the circumstances and
10:57:15 37 I can't predict what they might be at the moment because I
10:57:19 38 don't have in mind a particular circumstance where it could
10:57:24 39 be used. If there is genuine concern about it because of a
10:57:29 40 particular piece of evidence and it can be achieved by a
10:57:32 41 [REDACTED] well that may be appropriate.
42
10:57:41 43 I'm reminded that there was also another piece of evidence
10:57:46 44 from Mr De Santo when he told him that he'd told [REDACTED]
10:57:52 45 [REDACTED] That may well be
10:57:57 46 part of the issue as well. But to come back to your point
10:58:01 47 about the [REDACTED] it depends on the circumstances. It

.17/05/19

1961

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10:58:09 1 really needs to be assessed on a case by case basis.
 10:58:13 2
 10:58:13 3 COMMISSIONER: I think what's being suggested is that the
 10:58:15 4 transcript be redacted [REDACTED]
 10:58:20 5 [REDACTED]
 10:58:21 6
 10:58:23 7 MR WINNEKE: Commissioner, the transcript is better than
 10:58:24 8 [REDACTED] It puts the [REDACTED] The
 10:58:27 9 [REDACTED] made it quite clear what it was about, and
 10:58:31 10 the [REDACTED] wasn't the problem, it was the
 10:58:34 11 [REDACTED] made it clear I think, my
 10:58:37 12 recollection of [REDACTED] that it referred to
 10:58:40 13 [REDACTED]
 10:58:44 14 in order to [REDACTED]
 10:58:45 15
 10:58:45 16 COMMISSIONER: It did, it did.
 10:58:47 17
 10:58:47 18 MR WINNEKE: And [REDACTED] his drug case, to help him with
 10:58:51 19 his defence in his drug case.
 10:58:53 20
 10:58:53 21 COMMISSIONER: Yes. But it just depends whether the sort
 10:58:55 22 of people who [REDACTED] who might wish to harm
 10:58:59 23 [REDACTED] would necessarily read
 10:59:04 24 and understand [REDACTED] or whether they just act on the
 10:59:07 25 [REDACTED]
 10:59:07 26
 10:59:09 27 MR WINNEKE: If they don't read [REDACTED]
 10:59:12 28 they're not likely to read and understand the transcript.
 10:59:14 29
 10:59:15 30 COMMISSIONER: That might be true, but that of course is
 10:59:18 31 the concern Corrective services have and the reason they've
 10:59:23 32 reacted the way they have.
 10:59:25 33
 10:59:25 34 MR WINNEKE: I understand that that's why I think it is
 10:59:27 35 perhaps appropriate to approach it on a case by case basis
 10:59:31 36 as we move along and involve Mr Maidment in our discussions
 10:59:34 37 about it.
 10:59:35 38
 10:59:35 39 COMMISSIONER: You say there's nothing to be achieved now
 10:59:38 40 in using [REDACTED] and if it is to arise in the future
 10:59:45 41 the Commission should give Mr Maidment notice of it and
 10:59:47 42 deal with it in the best way possible at that point.
 10:59:50 43
 10:59:51 44 MR WINNEKE: Commissioner, that's correct. The transcript
 10:59:53 45 is as it is. The [REDACTED] there's nothing we
 10:59:56 46 can do about the [REDACTED] that's the problem, not the
 10:59:57 47 transcript and not the [REDACTED] It's the

.17/05/19

1962

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11:00:01 1 [REDACTED] that's the problem, it seems.
11:00:02 2
11:00:02 3 COMMISSIONER: Yes.
11:00:03 4
11:00:04 5 MR WINNEKE: In our submission there's no point in fiddling
11:00:06 6 with the transcript as it is.
11:00:07 7
11:00:08 8 COMMISSIONER: All right, I understand. Mr Holt, do you
11:00:10 9 have any submission?
11:00:11 10
11:00:12 11 MR HOLT: We support the thrust of the application,
11:00:14 12 Commissioner, on the basis that any information which
11:00:16 13 [REDACTED]
11:00:20 14 [REDACTED]
11:00:23 15 [REDACTED]
11:00:27 16 [REDACTED] of
11:00:31 17 course, as the Commission knows, that doesn't require a
11:00:35 18 specific threat in any particular case.
11:00:37 19
11:00:37 20 COMMISSIONER: But there was no application by you when
11:00:39 21 this evidence was given.
11:00:41 22
11:00:41 23 MR HOLT: No, and we only received notice of this
11:00:43 24 application very recently, Commissioner. I haven't had an
11:00:46 25 opportunity to go back, so I'm really attempting to assist
11:00:50 26 the Commission.
11:00:50 27
11:00:50 28 COMMISSIONER: I understand. But what I'm saying is
11:00:52 29 Victoria Police was represented in court when it all
11:00:53 30 happened and all came out. There was no application then
11:00:56 31 to [REDACTED]
11:00:57 32
11:00:57 33 MR HOLT: No, I accept that.
11:00:59 34
11:00:59 35 COMMISSIONER: Why was that?
11:01:01 36
11:01:02 37 MR HOLT: I don't know, Commissioner.
11:01:02 38
11:01:03 39 COMMISSIONER: It did occur to me at the time but I thought
11:01:04 40 there must have been a decision made that because it
11:01:07 41 related so closely to the Nicola Gobbo relationship with
11:01:12 42 clients who were appealing, that therefore it was okay to
11:01:16 43 the public record. I thought that must have been the
11:01:19 44 reasoning, that whilst you're very astute to block
11:01:23 45 everything out [REDACTED]
11:01:26 46 [REDACTED]
11:01:26 47

.17/05/19

1963

IN CAMERA

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11:01:26 1 MR HOLT: I can't assist the Commission with why that
11:01:30 2 occurred, I apologise, I simply haven't had time this
11:01:33 3 morning since becoming aware of the application being made.

11:01:35 4
11:01:36 5 COMMISSIONER: No, no, but I just meant at the time the
11:01:39 6 evidence came out.

11:01:39 7
11:01:39 8 MR HOLT: Yes. I'm sorry, I can't presently assist,
11:01:41 9 Commissioner, without guessing as to that. The essence of
11:01:44 10 the position of course is that what occurs in terms of the
11:01:44 11 way in which the [REDACTED] is published is
11:01:48 12 precisely one of the reasons [REDACTED]
11:01:52 13 Our respectful submission is that the prima facie position
11:01:55 14 of all people, of everyone involved in the Commission ought
11:01:59 15 be that [REDACTED]
11:02:02 16 [REDACTED]
11:02:06 17 [REDACTED]
11:02:10 18 [REDACTED] which consideration needs to be given and
11:02:14 19 in circumstances where at least a potential risk has
11:02:18 20 manifested, as it has here, there's no reason why that
11:02:21 21 [REDACTED] And I agree with
11:02:25 22 our learned friend Mr Winneke, with respect, that a simple
11:02:28 23 decision to use [REDACTED] for everything is unlikely to
11:02:30 24 be an effective remedy simply because, particularly for
11:02:35 25 [REDACTED] though it applies to others as well,
11:02:38 26 particularly for [REDACTED] it is likely to be obvious by
11:02:43 27 use of [REDACTED] so the only things we would respectfully
11:02:45 28 suggest - yes, certainly Victoria Police would agree and
11:02:49 29 undertake to assist both the Commission and our learned
11:02:53 30 friend Mr Maidment in terms of pre-identifying issues that
11:02:57 31 might raise these kinds of things to decide how they might
11:02:58 32 be dealt with, and (b), the question of whether the
11:03:00 33 Commission would make an order under s.26 in general terms
11:03:00 34 that any information that might tend to identify [REDACTED]
11:03:03 35 [REDACTED] ought be
11:03:07 36 not published by whatever mechanism that needs to be done.
11:03:10 37 But we agree it has to be on a case by case basis,
11:03:13 38 Commissioner.

11:03:14 39
11:03:14 40 COMMISSIONER: Thank you. Mr Kyriakou for the State, can
11:03:22 41 you assist us with what sort of - whether any statement
11:03:26 42 from the Commission might [REDACTED] his
11:03:33 43 risk assessment, so that he could get [REDACTED]
11:03:39 44 [REDACTED] faster and be safe?

11:03:42 45
11:03:44 46 MR KYRIAKOU: Commissioner, that may be the case but it's
11:03:46 47 something that I'll have to take instructions on.

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11:03:47 1
11:03:48 2 COMMISSIONER: Yes, all right. How long would it take you
11:03:52 3 to get those instructions, Mr Kyriakou?
11:03:54 4
11:03:55 5 MR KYRIAKOU: I'll seek them out immediately.
11:03:56 6
11:03:56 7 COMMISSIONER: Thank you. I think perhaps the best course
11:04:01 8 is to wait to hear from Mr Kyriakou on that and then
11:04:05 9 Mr Kyriakou could communicate that to Mr Maidment and that
11:04:13 10 could be discussed amongst counsel to see whether it would
11:04:17 11 be appropriate or useful. It may not be but I think it's
11:04:20 12 worth exploring and also, Mr Kyriakou, if you could ensure
11:04:27 13 that Mr Maidment's ability to communicate with his client
11:04:31 14 is streamlined so he can - by phone or as quickly as
11:04:36 15 possible once you've got those instructions. I think
11:04:39 16 that's all I can do for the moment, Mr Maidment.
11:04:41 17
11:04:42 18 MR MAIDMENT: Yes. I must say that it's unfortunate that
11:04:46 19 it slipped through the police net.
11:04:48 20
11:04:48 21 COMMISSIONER: Yes. One could be cynical about these
11:04:52 22 things.
11:04:52 23
11:04:54 24 MR MAIDMENT: I could suggest double standards bur perhaps
11:04:59 25 I will - - -
11:04:59 26
11:04:59 27 MR HOLT: With respect, Commissioner, I understand why that
11:05:02 28 exchange has occurred. It's not the position, it's not
11:05:06 29 ever the position. Victoria Police's position, as the
11:05:06 30 Commissioner will well know, has been utterly person
11:05:06 31 neutral in respect of all matters. The fact that that came
11:05:09 32 out with [REDACTED] which then gave rise to
11:05:13 33 issues is a different question but it ought not be
11:05:14 34 suggested, with respect, without any evidence that Victoria
11:05:16 35 Police has been anything other than entirely consistent in
11:05:19 36 terms of its approach [REDACTED]
11:05:21 37 [REDACTED]
11:05:23 38
11:05:24 39 COMMISSIONER: Well - - -
11:05:25 40
11:05:26 41 MR HOLT: Sorry, Commissioner, it is the position.
11:05:27 42
11:05:27 43 COMMISSIONER: Well there was no application in respect of
11:05:29 44 [REDACTED]
11:05:32 45
11:05:32 46 MR HOLT: No, Commissioner. And there have been other
11:05:35 47 mistakes made in respect of other matters by us and by the

.17/05/19

1965

IN CAMERA

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11:05:38 1 Commission and by others in respect to this proceeding, and
11:05:40 2 ill-motives ought not be ascribed in our respectful
11:05:45 3 submission.
11:05:45 4
11:05:45 5 COMMISSIONER: The mistake is usually very quickly
11:05:48 6 corrected. Anyway, I'm not making any findings.
11:05:51 7
11:05:51 8 MR HOLT: Thank you Commissioner.
11:05:53 9
11:05:53 10 MR MAIDMENT: Frankly, there's plenty of evidence.
11:05:56 11
11:05:59 12 COMMISSIONER: I don't think we need to go down that path
11:06:00 13 any further.
11:06:01 14
11:06:02 15 MR MAIDMENT: We respectfully agree with Mr Winneke that
11:06:08 16 dealing with it on a case by case basis is really the only
11:06:12 17 way, that it may be possible in certain circumstances to
11:06:16 18 ameliorate risks through [REDACTED]. It may be that it's
11:06:22 19 impossible. It is quite difficult I think to see how the
11:06:29 20 transcript can now be redacted in a way that achieves what
11:06:34 21 we set out to do. We accept that. But it may be that if
11:06:39 22 circumstances, similar circumstances arise in the future
11:06:42 23 that the only way of dealing with it would be to go into
11:06:48 24 closed hearing. We, I think, don't need to say any more
11:06:56 25 than we've already said about dealing with it on a case by
11:07:00 26 case basis.
11:07:01 27
11:07:02 28 COMMISSIONER: Mr Maidment, do you think there is a
11:07:04 29 possibility that exploring whether the Commission can make
11:07:07 30 a statement that may be of assistance to your client or do
11:07:10 31 you think it won't be?
11:07:12 32
11:07:12 33 MR MAIDMENT: I think it's worth exploring and certainly
11:07:15 34 worth exploring from Mr Mokbel's point of view with
11:07:18 35 Corrections as to whether that might make a difference to
11:07:20 36 their attitude.
11:07:21 37
11:07:21 38 COMMISSIONER: All right. We'll do that to see if any good
11:07:24 39 comes of it.
11:07:25 40
11:07:26 41 MR MAIDMENT: Yes.
11:07:26 42
11:07:26 43 COMMISSIONER: What about an order that there be no
11:07:32 44 publication of [REDACTED] I'm not sure, is
11:07:41 45 there any suggestion that [REDACTED] was going to
11:07:44 46 [REDACTED] Has that come out in the - - -
11:07:48 47

.17/05/19

1966

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11:07:50 1 MR MAIDMENT: I don't know.
11:07:50 2
11:07:51 3 COMMISSIONER: That was more a question to Mr Winneke than
11:07:53 4 to you.
11:07:54 5
11:07:55 6 MR MAIDMENT: One might infer that there had been some
11:08:00 7 communication between Ms Gobbo and [REDACTED] or
11:08:07 8 [REDACTED] vis-à-vis - - -
11:08:07 9
11:08:07 10 COMMISSIONER: Your client is concerned about her welfare.
11:08:12 11
11:08:13 12 MR MAIDMENT: He's concerned about the implication upon him
11:08:17 13 certainly. He would dispute the factual basis for that in
11:08:21 14 any event. But certainly so far as it impacts upon
11:08:29 15 [REDACTED] then of course he's concerned with that too.
11:08:41 16
11:08:41 17 COMMISSIONER: Another possibility would be a
11:08:43 18 non-publication order.
11:08:45 19
11:08:45 20 MR MAIDMENT: Yes.
11:08:46 21
11:08:46 22 COMMISSIONER: In respect of any material stating or
11:08:53 23 tending to show that your client or [REDACTED]
11:09:13 24 [REDACTED] - was - - -
11:09:19 25
11:09:19 26 MR MAIDMENT: [REDACTED]
11:09:23 27
11:09:24 28 COMMISSIONER: [REDACTED] That may be
11:09:38 29 sufficient for your purposes.
11:09:40 30
11:09:40 31 MR MAIDMENT: Maybe, yes. We'd certainly be grateful for
11:09:46 32 that.
11:09:48 33
11:09:49 34 COMMISSIONER: Anyway, let's see what Mr Winneke says about
11:09:51 35 that.
11:09:52 36
11:09:52 37 MR MAIDMENT: Thank you.
11:09:53 38
11:09:54 39 MR WINNEKE: Sorry, Commissioner, I was just distracted.
11:10:00 40 Are you suggesting that the Commission make a statement to
11:10:02 41 that effect?
11:10:02 42
11:10:03 43 COMMISSIONER: No, no. The statement idea is being
11:10:05 44 explored.
11:10:06 45
11:10:07 46 MR WINNEKE: Sorry, this is an order.
11:10:08 47

.17/05/19

1967

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11:10:08 1 COMMISSIONER: This is a potential order, a non-publication
11:10:10 2 order in respect of any material stating or tending to show
11:10:13 3 [REDACTED] full
11:10:20 4 name, [REDACTED]

11:10:27 5
11:10:28 6 MR WINNEKE: Commissioner, my submission would be that it's
11:10:30 7 unnecessary. If there is further information to that
11:10:33 8 effect which comes to light, that's something that can be
11:10:38 9 discussed on a case by case basis. Insofar as what's
11:10:42 10 occurred, our submission is that the horse has bolted in
11:10:45 11 any event.

11:10:45 12
11:10:45 13 COMMISSIONER: It's true, but they could repeat this, you
11:10:47 14 see. They could repeat this and that flares up again and
11:10:55 15 makes the whole thing an issue again. That at least would
11:10:58 16 stop any further repetition of that material. We are
11:11:00 17 taking care [REDACTED]

11:11:00 18

11:11:08 19

11:11:08 20

11:11:08 21 MR WINNEKE: I accept that. Clearly it would be, if this
11:11:11 22 publication has led to [REDACTED] to [REDACTED]
11:11:16 23 [REDACTED] well it's unfortunate. It may
11:11:19 24 well be the [REDACTED] I don't
11:11:24 25 know how long [REDACTED] is going to take.

11:11:26 26

11:11:26 27 COMMISSIONER: Unless we make that order the evil can be
11:11:30 28 repeated by the media.

11:11:31 29

11:11:32 30 MR WINNEKE: If it's evil. The point I'm making is if it's
11:11:35 31 evil. Commissioner, look, insofar as an order of that
11:11:44 32 sort, I don't have any violent opposition to that.

11:11:47 33

11:11:49 34 COMMISSIONER: Mr Holt, did you want to say anything about
11:11:52 35 the appropriateness of the proposed order?

11:11:53 36

11:11:54 37 MR HOLT: The order is appropriate with respect,
11:11:56 38 Commissioner.

11:11:56 39

11:11:56 40 COMMISSIONER: Thank you. I think I will make that order
11:11:59 41 going forward. We can't undo what's done but at least it
11:12:03 42 will stop a repetition of it and that at least gives some
11:12:06 43 protection. Mr Kyriakou and you, Mr Maidment, can get back
11:12:10 44 to me on the other matter, whether that would be of
11:12:14 45 assistance, a statement; and, if so, its form.

11:12:20 46

11:12:20 47 MR MAIDMENT: Yes, we're grateful, Commissioner. Thank you

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11:12:24 1 for hearing us.
11:12:24 2
11:12:25 3 COMMISSIONER: Thank you. [REDACTED]
11:12:31 4 [REDACTED]
11:12:35 5 [REDACTED]
11:12:42 6
11:12:43 7 MR MAIDMENT: [REDACTED]
11:12:52 8
11:12:52 9 COMMISSIONER: Or [REDACTED]
11:12:54 10
11:12:54 11 MR MAIDMENT: [REDACTED]
11:12:57 12 [REDACTED]
11:13:04 13
11:13:04 14 COMMISSIONER: Thank you. [REDACTED]
11:13:08 15 [REDACTED] I'm satisfied that that order is
11:13:10 16 necessary under the *Inquiries Act*. I direct that a copy of
11:13:13 17 the order be placed on the hearing room door and also the
11:13:22 18 doors of the hearing rooms to which these proceedings are
11:13:27 19 ordinarily streamed.
11:13:30 20
11:13:30 21 MR WINNEKE: Thank you Commissioner. [REDACTED]
11:13:36 22
11:13:36 23 COMMISSIONER: Thank you.
11:13:37 24
11:13:37 25 MR WINNEKE: I wonder if we could have a short stand down
11:13:39 26 to get things ready for the next witness.
11:13:41 27
11:13:42 28 COMMISSIONER: Yes, absolutely. We'll adjourn, thank you.
11:14:44 29
11:14:44 30 (Short adjournment.)
31
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1 PROCEEDINGS IN CAMERA:
14:56:27 2
14:56:27 3 MS ENBOM: Commissioner, I've been intending to have a look
14:56:29 4 at the order but my memory is that in the first week of
14:56:34 5 this Royal Commission a suppression order was made that
14:56:37 6 would avoid you having to make a separate order and publish
14:56:42 7 it on the door every time an objection is raised. I'll
14:56:47 8 have a look at that order but each time this has happened
14:56:51 9 I've been meaning to go back and look at that order. I'm
14:56:56 10 sure I drafted it and that that was certainly the
14:56:59 11 intention, that whenever a PII claim was made that was
14:57:02 12 upheld or an application to close the court was made and
14:57:06 13 upheld, that application would be automatically suppressed
14:57:10 14 so that you wouldn't have make a separate order every time.
14:57:13 15
14:57:14 16 COMMISSIONER: I'll have a look at that. Thank you. Yes,
14:57:16 17 Mr Winneke.
14:57:16 18
14:57:17 19 MR WINNEKE: It would certainly save the wallpapering
14:57:20 20 outside the doors.
14:57:20 21
14:57:21 22 COMMISSIONER: Might save a few trees, yes.
14:57:24 23
14:57:24 24 MR WINNEKE: You might go to your statement of 27 April
14:57:27 25 2012?---Yes.
14:57:29 26
14:57:35 27 It was considered that Dale and ██████ were friends?---Yes.
14:57:39 28
14:57:39 29 Close friends?---Correct.
14:57:40 30
14:57:40 31 The view was taken that Dale and ██████ had been mates for
14:57:45 32 some time, going back to their days even at Lorimer or at
14:57:48 33 Brunswick police station, are you aware of that?---Yes.
14:57:52 34
14:57:52 35 Were you aware at that stage that Nicola Gobbo had also
14:57:57 36 been a friend of ██████ and indeed quite a close friend
14:58:02 37 of ██████ certainly at least on one night that we know
14:58:06 38 of?---I didn't know that at the time, no.
14:58:09 39
14:58:09 40 Did you know that they were friends?---Yes. I knew there
14:58:13 41 was an association or relationship.
14:58:17 42
14:58:17 43 Between Gobbo and ██████?---Well I took that that existed
14:58:24 44 due to his involvement in the conveying messages between
14:58:30 45 Paul Dale and Nicola Gobbo.
14:58:31 46
14:58:32 47 Righto. Was this the first time that you got wind of the

.17/05/19

2014

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14:58:36 1 idea that [REDACTED] might be the person who could be an
 14:58:41 2 intermediary or used to arrange the meeting?---Yes.
 14:58:44 3
 14:58:44 4 Between Dale and Hodson?---I mean he became I guess a
 14:58:47 5 person of interest when he was caught on the telephone
 14:58:54 6 intercepts passing messages basically.
 14:58:56 7
 14:58:57 8 Right, yeah, okay. What happened was that there was the
 14:59:01 9 meeting between Hodson and Gobbo on 5 November and during
 14:59:10 10 the course of that meeting Hodson advised that the meeting
 14:59:13 11 with Gobbo was excellent. Gobbo informed him that Dale was
 14:59:18 12 very paranoid and she'd had to meet him the other night at
 14:59:23 13 10 o'clock?---Yes.
 14:59:26 14
 14:59:27 15 She'd given Dale a message. "She was under the impression
 14:59:33 16 that he was going to get arrested any day and she needed
 14:59:38 17 for him, Dale, to see Hodson before he went on leave for
 14:59:44 18 three weeks on Friday", is that right?---Correct.
 14:59:45 19
 14:59:45 20 Hodson stated that she had indicated that Paul had told her
 14:59:48 21 people upstairs, higher ranks than him, were involved in
 14:59:51 22 regard to the cash?---Yes.
 14:59:52 23
 14:59:52 24 Did you understand that there was any - was there any
 14:59:55 25 information at that stage about cash?---Well, there was a
 15:00:02 26 suspicion that there was cash.
 15:00:05 27
 15:00:05 28 That a significant amount of cash had gone missing on the
 15:00:09 29 night of the burglary; is that right?---Whether that was
 15:00:12 30 known at that stage, I don't believe it was.
 15:00:20 31
 15:00:20 32 Right?---It wasn't a live issue, if you like.
 15:00:22 33
 15:00:23 34 That wasn't in the public domain at all?---No.
 15:00:25 35
 15:00:28 36 In any event - - -?---Just in terms of, also just
 15:00:37 37 acknowledging Gobbo's dealings with Abby Haynes who was
 15:00:42 38 involved in where that information came from.
 15:00:45 39
 15:00:45 40 Yes?---Could have been, you know, who knows.
 15:00:48 41
 15:00:49 42 Yes, right?---And Ahmed whether, you know, she's received
 15:00:56 43 information directly or indirectly from those two
 15:00:59 44 individuals.
 15:00:59 45
 15:01:00 46 Just while we're on Ahmed, did you know that she had made
 15:01:03 47 an application, a successful bail application on his behalf

.17/05/19

2015

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15:01:06 1 during the course of the period after the burglary?---Look,
15:01:10 2 I probably am aware of that, but not know, I don't recall
15:01:17 3 it.
15:01:17 4
15:01:17 5 Did you know then that she'd had a relationship with Ahmed
15:01:21 6 as well, is that something you became aware of?---No. No,
15:01:24 7 I did not know.
15:01:24 8
15:01:25 9 Perhaps if we can go back to this particular matter. Gobbo
15:01:43 10 stated that she would get a message to Dale through a third
15:01:46 11 party instructing him to meet Hodson. "This is
15:01:50 12 significant", you said in your statement, "because later
15:01:52 13 the same day through the lawful monitoring of Dale's
15:01:54 14 services conversations were captured between Dale and [REDACTED]
15:01:58 15 [REDACTED] in which [REDACTED] passed a coded message to Dale to
15:02:02 16 call Gobbo"?---Yep, that's correct.
15:02:04 17
15:02:05 18 You refer to that in the next telephone call that you
15:02:10 19 listened to and that's the monitored telephone conversation
15:02:15 20 between Dale?---Which call number is that?
15:02:20 21
15:02:20 22 Sorry, if you go to paragraph 49?---49, thank you.
15:02:23 23
15:02:23 24 "During a lawfully monitored telephone conversation a
15:02:26 25 person believed to be Dale accessed Dale's voicemail and
15:02:31 26 retrieved a message. The message stated, 'It's [REDACTED]
15:02:34 27 here' at 4.30 and to give him a call back as he has a
15:02:41 28 message for him. If he calls him back before he sees him
15:02:44 29 tonight he might be able to return the call because the
15:02:47 30 message is supposedly urgent and to ring from a good
15:02:52 31 phone"?---Yes.
15:02:52 32
15:02:53 33 Your belief was that this was a message left by [REDACTED]
15:02:58 34 in response to having been contacted by Gobbo?---Yes.
15:03:02 35
15:03:04 36 [REDACTED] was passing a message from Gobbo for Dale to contact
15:03:06 37 her and in your view that corroborated what Hodson had said
15:03:11 38 about Gobbo using a third person to contact Dale to arrange
15:03:16 39 a meeting?---That's correct.
15:03:16 40
15:03:17 41 And [REDACTED] instructed Dale to use a good phone and this was
15:03:17 42 believed to be a safe phone that wasn't going to be
15:03:21 43 listened in on?---That's right.
15:03:24 44
15:03:24 45 Subsequently there was a telephone call at 5.48 and Dale
15:03:28 46 called [REDACTED] "Dale stated that he was calling from his
15:03:31 47 own phone and [REDACTED] indicated he'd just got a phone call

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15:03:37 1 from a person that needed to pass a message on to him.
 15:03:40 2 ██████ didn't know why they needed to go through him. As
 15:03:44 3 always with this person it was a matter of national
 15:03:47 4 security". Your view was that that was a reference to
 15:03:50 5 Nicola Gobbo and "everything's a matter of national
 15:03:53 6 security and urgency" and so forth?---Important, urgent,
 15:03:58 7 urgent.
 15:03:59 8
 15:03:59 9 "Dale said he'd speak to ██████ when he saw him. ██████
 15:04:04 10 said she had something to say to you but didn't want to
 15:04:07 11 ring you for whatever reason, she rang him. ██████ told
 15:04:10 12 Dale to ring this person back when he gets the chance,
 15:04:13 13 obviously from the right sort of place." Clearly that's a
 15:04:15 14 reference to a safe place in terms of telephone calls; is
 15:04:18 15 that right?---That's correct.
 15:04:19 16
 15:04:21 17 "Dale immediately pointed out to ██████ he was calling him
 15:04:24 18 from his own phone." This told ██████ you say, it was not
 15:04:27 19 a safe place to talk from, not a good phone, and
 15:04:32 20 essentially what you've done is interpreted that telephone
 15:04:34 21 call in paragraphs A, B, C and D?---That's correct.
 15:04:38 22
 15:04:42 23 Then if I can perhaps - I'll just go through the remainder
 15:04:47 24 of this, Commissioner, see if there's anything else I want
 15:04:50 25 to particularly deal with in private. If you go to -
 15:05:13 26 perhaps we'll just quickly deal with these. I'll ask you
 15:05:17 27 about the 6 November meeting perhaps in public so I'll
 15:05:21 28 leave that for the moment. Call 344. Again, monitored
 15:05:30 29 telephone conversation. You called Hodson to ask if they'd
 15:05:35 30 heard anything. He told you that he hadn't heard
 15:05:38 31 anything?---Yes.
 15:05:38 32
 15:05:38 33 He'd stayed up until 3 am waiting for Dale. "Hodson said
 15:05:42 34 that the big lady was going to ring him when the meeting
 15:05:46 35 was going to happen. As soon as Hodson heard from either
 36 one he was going to call"?---Yes. That's correct.
 37
 15:05:48 38 When he heard from either one he was going to call,
 15:05:51 39 right?---That's correct.
 15:05:51 40
 15:05:52 41 Next call, 12 November, during a lawfully monitored call
 15:05:55 42 you received a call from Hodson who said, "He thought we
 15:05:58 43 had a meeting", referring to Dale. "She hadn't rung.
 15:06:05 44 She'd rung Andrew, the big lady that is, and she wanted a
 15:06:11 45 meeting for tomorrow. Hodson thought that they were in for
 15:06:14 46 a meeting tomorrow with our friend, Dale, at Dominos. She
 15:06:17 47 would take him, that is Dale, Hodson said. Because he

.17/05/19

2017

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These claims are not yet resolved.

15:06:21 1 hadn't spoken to she'd rung Andrew and that was good
 15:06:24 2 because that was how she had always got in contact with
 15:06:27 3 him"?---Yes.
 15:06:28 4
 15:06:28 5 Righto. Again, you interpret that in the following
 15:06:33 6 paragraphs. There was a further discussion in the next
 15:06:46 7 telephone call about "Dale not showing and the reason she
 15:06:54 8 got him to come in was to tell him that he's going away
 15:06:57 9 tomorrow to his parents' house, he'll slip back into town
 15:07:00 10 towards the end of next week. Passed a message through her
 15:07:05 11 to be careful of Dave because he thinks he's wired. He
 15:07:11 12 will ring the big lady and then she'll ring Hodson and tell
 15:07:13 13 him the location". Again that's an attempt to set up a
 15:07:15 14 meeting; is that right?---Correct.
 15:07:16 15
 15:07:17 16 Another telephone conversation on 1 December to the same
 15:07:24 17 effect. Hodson hadn't heard from Gobbo about meeting Dale.
 15:07:28 18 You asked Hodson to call Gobbo, as Dale was back, and to
 15:07:31 19 try and arrange a meeting, right?---Yes.
 15:07:35 20
 15:07:35 21 Then later on you get a call from Hodson who advises that
 15:07:41 22 he'd just spoken to Gobbo and she was anticipating seeing
 15:07:47 23 Dale in the next couple of days and wanted to have a coffee
 15:07:51 24 with Hodson next week?---Yes.
 25
 15:07:53 26 Mid-week, because she had some news for him. You then
 15:07:57 27 discussed Hodson organising his legal
 15:08:02 28 representation?---Yes.
 15:08:03 29
 15:08:03 30 I take it that you took the view that he'd need to get
 15:08:06 31 legal representation?---Correct.
 15:08:07 32
 15:08:08 33 I take it you were planning the arrest and it was
 34 appropriate then that he had a lawyer to assist him, is
 15:08:12 35 that right?---Obviously that wasn't directly relayed to him
 15:08:15 36 in terms of our intentions or time frame.
 15:08:17 37
 15:08:17 38 Yes?---It was obviously just getting him sort of prepared.
 15:08:20 39
 15:08:20 40 Yes, okay. All right then. Yes, thanks very much for
 15:08:27 41 that, Commissioner. I think they're the matters that I
 15:08:35 42 wanted to deal with in private.
 15:08:36 43
 15:08:37 44 COMMISSIONER: Is there any cross-examination for just this
 15:08:41 45 private hearing portion of the evidence? Mr Collinson?
 15:08:44 46
 15:08:45 47 MR COLLINSON: No.

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15:08:48 1 COUNSEL: No.
15:08:49 2
15:08:50 3 COMMISSIONER: Any re-examination?
15:08:54 4
15:08:55 5 MS ENBOM: No.
15:09:30 6
15:09:31 7 COMMISSIONER: All right, we'll have a short adjournment
15:09:32 8 and resume in open hearing.
15:09:34 9
15:09:35 10 (Short adjournment.)
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.17/05/19

2019

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These claims are not yet resolved.

1 PROCEEDINGS IN CLOSED HEARING:
2
15:51:33 3 COMMISSIONER: Yes, Ms McCudden.
15:51:35 4
15:51:35 5 MS McCUDDEN: Commissioner, thank you. When the
15:51:38 6 application was stood down I arrived and have had various
15:51:43 7 - communications with Mr Maidment on behalf of his client
15:51:46 8 [REDACTED] They were very useful. We've certainly ensured
15:51:50 9 that there's streamlined communication, so the
15:51:54 10 Commissioner's concerned about that, there is certainly no
15:51:56 11 concern. Mr Maidment having had the opportunity to speak
15:52:00 12 directly with his client over the luncheon break he was
15:52:04 13 also able to confirm the order by the Commission of the
15:52:08 14 suppression orders that were made whilst we were in
15:52:10 15 discussions and that has been noted by Mr Maidment, and
15:52:13 16 he's asked me to convey to the Commission and parties that
15:52:16 17 his client's instructions are to not seek a statement.
15:52:21 18
15:52:22 19 COMMISSIONER: Fine.
15:52:22 20
15:52:23 21 MS McCUDDEN: I won't go into the detail.
15:52:24 22
15:52:24 23 COMMISSIONER: That's fine, that's all I need to know.
15:52:27 24
15:52:28 25 MS McCUDDEN: We are continuing to obviously work with
15:52:30 26 Mr Maidment and his client in respect to other matters that
15:52:32 27 were raised regarding Corrections and the status of his,
15:52:37 28 the risk assessment of his current incarceration, but
15:52:39 29 otherwise in respect of that proposal we both wish to say
15:52:44 30 thank you to the Commissioner but that is the position.
15:52:47 31
15:52:47 32 COMMISSIONER: I understand, thank you. In that case
15:52:54 33 there'll be no further order in respect of this matter and
15:52:59 34 the Commission is no longer closed. The hearing room is no
15:53:03 35 longer closed.
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