

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 Wednesday, 19 June 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 J. Hannebery QC
 Ms R. Enbom
 Ms K. Argiropoulos

Counsel for State of Victoria Mr G. Hill

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

Counsel for DPP/SPP Mr P. Doyle

Counsel for Handlers Mr G. Chettle
 Ms L. Theis

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1 PROCEEDINGS IN CAMERA:
2
10:37:02 3 COMMISSIONER: Yes Ms Argiropoulos.
10:37:03 4
10:37:03 5 MS ARGIROPOULOS: Thank you. Commissioner, unfortunately
10:37:06 6 in light of the ruling that's been made in terms of the
10:37:09 7 presence of other parties, I'll just need to seek a short
10:37:14 8 amount of time to seek some instructions from my witness
10:37:17 9 about certain aspects of the proposed evidence which may
10:37:19 10 not be able to be dealt with given the arrangements that
10:37:23 11 have been made, but if I could just ask for a short period
10:37:27 12 of time to do that.
10:37:29 13
10:37:29 14 COMMISSIONER: Could you just tell me the paragraphs of the
10:37:35 15 witness's evidence that you're concerned - your witness's
10:37:40 16 evidence that concern you in that respect?
10:37:42 17
10:37:42 18 MS ARGIROPOULOS: Yes.
10:37:43 19
10:37:44 20 COMMISSIONER: This is the - read the material if you
10:37:46 21 could.
10:37:47 22
10:37:47 23 MS ARGIROPOULOS: Yes, certainly. Commissioner, five of
10:37:49 24 these ten exhibits relate to - - -
10:37:54 25
10:37:55 26 COMMISSIONER: Commission staff, they're getting me to sign
10:37:58 27 the order I think.
10:37:59 28
10:37:59 29 MS ARGIROPOULOS: Thank you. Sorry, I'm answering to a
10:38:03 30 number of others, I assume we are in closed hearing now.
10:38:06 31
10:38:06 32 COMMISSIONER: Yes, closed hearing.
10:38:07 33
10:38:08 34 MS ARGIROPOULOS: Commissioner, five of the ten exhibits in
10:38:10 35 respect of which evidence will be adduced concern a person
10:38:14 36 who has been referred to in this Royal Commission as [REDACTED]
10:38:18 37 [REDACTED] and that person's obviously the subject of hearing in the
10:38:22 38 Court of Appeal [REDACTED]
10:38:24 39
10:38:25 40 COMMISSIONER: Yes.
10:38:25 41
10:38:27 42 MS ARGIROPOULOS: Our application ultimately is that the
10:38:30 43 Commissioner should defer a decision in terms of
10:38:33 44 publication of any information that relates to [REDACTED]
10:38:37 45 until the decision of the Court of Appeal is handed down
10:38:41 46 because it's precisely those same issues which were
10:38:46 47 litigated in the Court of Appeal [REDACTED] which relate to

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IN CAMERA

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10:38:49 1 that person.
10:38:49 2
10:38:49 3 COMMISSIONER: Okay. I'm not entirely across this material
10:38:53 4 yet so from what I understand [REDACTED] there's particular
10:38:58 5 legislative provisions - - -
10:39:00 6
10:39:01 7 MS ARGIROPOULOS: That's correct.
10:39:01 8
10:39:01 9 COMMISSIONER: Which may in fact mean other parties at the
10:39:04 10 Bar table can't be here, is that what you were trying to
10:39:05 11 say?
10:39:05 12
10:39:06 13 MS ARGIROPOULOS: That's what I was going to say. I was
10:39:08 14 going to hand up a note to make sure - - -
10:39:11 15
10:39:11 16 COMMISSIONER: Mr Woods, that's probably right, isn't it?
10:39:13 17
10:39:14 18 MR WOODS: If so.
19
20 COMMISSIONER: We're going to be dealing with [REDACTED]
21
10:39:15 22 MR WOODS: There are members of our team who are privy to
10:39:20 23 information and those who aren't.
10:39:21 24
25 COMMISSIONER: Exactly.
26
27 MR WOODS: I'm not privy.
28
10:39:22 29 COMMISSIONER: We might just have an adjournment and see.
10:39:24 30 Could you check this out because I don't want to - - -
10:39:27 31
10:39:27 32 MS ARGIROPOULOS: Can I just flag something, and I'm just
10:39:28 33 trying to be helpful obviously. If the Commissioner is
10:39:32 34 minded to defer a decision in relation to the [REDACTED]
10:39:36 35 aspects of these exhibits until after the Court of Appeal
10:39:40 36 decision is handed down, it may be that we could avoid
10:39:43 37 descending into those particularly sensitive legislative
10:39:49 38 requirements this morning, however if the Commissioner
10:39:54 39 wishes to deal with those today then certainly those issues
10:39:59 40 will arise. So I just make that very clear at the outset
10:40:04 41 because that is in fact the primary basis for the
10:40:09 42 application that I've made in the way that I've made it in
10:40:13 43 terms of exclusion of parties from this hearing room, and
10:40:16 44 those issues won't arise if the Commissioner's minded to
10:40:21 45 defer a decision and evidence about those matters until
10:40:23 46 after the Court of Appeal decision.
10:40:25 47

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10:40:25 1 COMMISSIONER: There seems some sense in that, Mr Woods.
10:40:28 2
10:40:29 3 MR WOODS: Yes, I agree, given what's been said and my
10:40:31 4 limited understanding of it, I think that's correct. If we
10:40:33 5 can step around those issues and deal with the other issues
10:40:36 6 it might be most efficient.
10:40:40 7
10:40:40 8 COMMISSIONER: Right. So that might mean you don't need
10:40:47 9 the adjournment. We don't deal with [REDACTED] now.
10:40:48 10 Anything concerning [REDACTED] is put off until after the
10:40:51 11 decision of the Court of Appeal [REDACTED]. We can
10:40:56 12 then deal with the remaining matters under the order I've
10:41:01 13 just given.
10:41:01 14
10:41:02 15 MS ARGIROPOULOS: I think that's right. I still would just
10:41:05 16 seek a brief adjournment of five minutes to ensure that I
10:41:09 17 communicate to the witness what will be the subject of
10:41:11 18 evidence today, but also confirm whether there is any other
10:41:17 19 impediment to the evidence otherwise being adduced in front
10:41:21 20 of the other parties present. It will be a much more
10:41:25 21 straightforward situation now but I still would just ask
10:41:28 22 for a brief adjournment for five minutes, please,
10:41:31 23 Commissioner.
10:41:31 24
10:41:31 25 COMMISSIONER: All right then. We'll have a short
10:41:34 26 adjournment.
10:41:35 27
10:42:15 28 (Short adjournment.)
10:53:51 29
10:53:52 30 MS ARGIROPOULOS: Thank you very much for that
10:53:53 31 Commissioner. We're now ready to proceed and if I could
10:53:57 32 call Superintendent Scott Mahoney, please.
10:54:00 33
10:54:00 34 COMMISSIONER: Yes.
10:54:03 35
10:54:04 36
10:54:05 37 <SCOTT MAHONEY, sworn and examined:
10:54:28 38
10:54:29 39 MS ARGIROPOULOS: Thank you, sir. Could you tell the
10:54:31 40 Commissioner your full name, your rank and work location,
10:54:35 41 please?---Scott Damien Mahoney. This week I'm currently an
10:54:38 42 Acting Commander for Intelligence and Covert Support
10:54:42 43 Command. I normally own the position of Superintendent in
10:54:46 44 charge of the Covert Services Division within the
10:54:48 45 Intelligence and Covert Support Command.
10:54:51 46
10:54:52 47 And Mr Mahoney, have you for the purpose of your evidence

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MAHONEY XN - IN CAMERA

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10:54:57 1 today reviewed ten exhibits for the purposes of making
10:55:05 2 public interest immunity claims on behalf of Victoria
10:55:07 3 Police?---I have.
10:55:08 4
10:55:09 5 I'm going to just ask you in turn about your evidence in
10:55:13 6 relation to a number of exhibits and if I could ask you,
10:55:21 7 firstly, about an exhibit which has been tendered as RC83,
10:55:27 8 and that's a fax from the OPP to Mr Strawhorn dated 17
10:55:33 9 December 1997 which encloses letters from a person
10:55:38 10 described in this Commission as Solicitor 1, and there are
10:55:43 11 a number of redactions to that statement which are sought
10:55:47 12 by Victoria Police concerning the name of the person [REDACTED]
10:55:52 13 [REDACTED]-Yes.
10:55:53 14
10:55:54 15 Could you please tell the Commission why those redactions
10:55:58 16 are sought?---Commissioner, the redactions are sought
10:56:02 17 because the letter clearly outlines that there's
10:56:07 18 consideration of [REDACTED] providing assistance to police.
10:56:11 19 Whether or not this assistance was realised or not is kind
10:56:15 20 of irrelevant because the existence of the document will
10:56:20 21 put that person in danger. People, some people may just
10:56:25 22 assume that they did assist police. The problem we have
10:56:28 23 with just redacting the name is that in terms of the time
10:56:33 24 line, the document is dated, the evidence that's already
10:56:36 25 before the Commission, all the material that has been
10:56:39 26 published by the Commission, it would be relatively easy
10:56:42 27 for someone to make assumptions as to who that person is.
10:56:47 28 Even if they got the assumption wrong it would put, could
10:56:50 29 put someone in danger. If the dates were removed it would
10:57:02 30 prohibit the Commission to put it in time order, but even
10:57:04 31 so in regards to where it sits in the chronology of matters
10:57:07 32 considered by the Commission inferences could still be made
10:57:10 33 in regards to who it might relate to.
10:57:16 34
10:57:18 35 Mr Mahoney, the situation in relation to this person, [REDACTED]
10:57:21 36 [REDACTED] is that there's already been some evidence before the
10:57:25 37 Commission in earlier hearings concerning [REDACTED]-That's
10:57:30 38 correct. Yes, there's clearly been evidence linking him to
10:57:34 39 [REDACTED] and Ms Gobbo.
10:57:39 40
10:57:40 41 And as I understand your evidence is the concern that in
10:57:43 42 light of that information that's already there, applying a
10:57:50 43 pseudonym or redaction to the name in itself, would that be
10:57:53 44 sufficient to protect the person's identity in the context
10:57:55 45 of this document?---Commissioner, I really believe it
10:57:58 46 wouldn't. I believe you've seen a confidential affidavit
10:58:01 47 I've prepared which talks about the jigsaw effect of little

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10:58:05 1 pieces of information and how - - -

10:58:06 2

10:58:06 3 COMMISSIONER: Where is this confidential affidavit?

10:58:09 4

10:58:09 5 MS ARGIROPOULOS: Mr Mahoney's referring to a previous

10:58:12 6 confidential affidavit that has been filed before this

10:58:15 7 Commission in relation to target and operation names, it's

10:58:21 8 dated 7 May 2019.

10:58:26 9

10:58:26 10 COMMISSIONER: Right. We're having some trouble finding

10:58:29 11 that but we'll find it now.

10:58:33 12

10:58:34 13 MS ARGIROPOULOS: I'm sure Mr Mahoney would be happy to

10:58:37 14 give some brief evidence as to what he means by the jigsaw

10:58:41 15 effect if that would be of assistance. Could you just

10:58:43 16 briefly explain what you mean when you talk about the

10:58:44 17 jigsaw effect?--Certainly. The jigsaw effect is when, you

10:58:47 18 know, if you take an document is isolation you can maybe

10:58:51 19 take a name out. But there'll be other material there that

10:58:54 20 when compared with other documents, you just get the little

10:58:57 21 pieces of biographical data, bio data, that you can then

10:59:02 22 put together to form a composite picture as to who a person

10:59:05 23 may be. I know back in the time when we were considering

10:59:10 24 the matters of [REDACTED] little bits of bio data, like the fact

10:59:12 25 the person owned [REDACTED] but their

10:59:17 26 partner had [REDACTED] When you

10:59:21 27 consider the number of people that this person knew and

10:59:26 28 associated with around that time, just the mention of

10:59:30 29 [REDACTED] might be, "Hang on, I know someone that used to

10:59:34 30 own a [REDACTED]

10:59:35 31

10:59:35 32 COMMISSIONER: I get the picture. I have read that

10:59:38 33 affidavit and I recall the submission about bio data. This

10:59:42 34 is a very long time ago, it's 1997?--So it doesn't mean

10:59:46 35 that any risk has deteriorated because, you know, if people

10:59:51 36 are in custody they'll generally look to blame other people

10:59:55 37 for their position other than themselves, other than

10:59:58 38 accepting responsibility for the fact that they're

11:00:01 39 incarcerated, or if they've spent a lot of time in custody

11:00:05 40 and they're quite bitter about it. I don't necessarily

11:00:08 41 agree with the concept that the passage of time makes the

11:00:13 42 risk lower.

11:00:18 43

11:00:19 44 MS ARGIROPOULOS: Yes. Thank you, Mr Mahoney. We might

11:00:22 45 move on to the next exhibit now, which is Exhibit RC84 and

11:00:29 46 this is an information report and it may be that I can deal

11:00:34 47 with this just by way of submission, Commissioner. But the

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MAHONEY XN - IN CAMERA

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11:00:39 1 Victoria Police submission is that when one reads the
11:00:44 2 content of this information report it relates entirely to a
11:00:50 3 human source other than Ms Gobbo. Therefore if this
11:00:55 4 document was to be redacted for PII purposes the entire
11:01:00 5 document would be redacted. My instructors have previously
11:01:06 6 written to the Royal Commission communicating that position
11:01:11 7 and that's the position that is maintained with respect to
11:01:15 8 that document. Furthermore, I'm instructed that Victoria
11:01:20 9 Police is in the process of applying for a suppression
11:01:25 10 order with respect to that document. That has not yet
11:01:28 11 occurred.

11:01:29 12
11:01:30 13 COMMISSIONER: What about the, it's relevant to a person
11:01:34 14 called ██████████ who is considered to be a person
11:01:39 15 affected.

11:01:39 16
11:01:39 17 MS ARGIROPOULOS: Yes. If I can just explain that the
11:01:42 18 reason for the suppression order being sought is in the
11:01:45 19 context of disclosure of this document to that affected
11:01:48 20 person, so any order that the Commissioner makes in terms
11:01:53 21 of this remaining a confidential exhibit won't mean that
11:01:58 22 disclosure does not occur because that's a separate
11:02:02 23 process, that will occur and it's within that context that
11:02:05 24 the suppression order is being sought.

11:02:08 25
11:02:09 26 COMMISSIONER: So you say it's not relevant to the inquiry?
11:02:13 27

11:02:13 28 MS ARGIROPOULOS: No, I don't say that it's not relevant.
11:02:15 29 It certainly is relevant to the Commissioner's work. The
11:02:19 30 application is for it to remain a confidential exhibit,
11:02:23 31 that is not tendered on, sorry, not published on the
11:02:27 32 website. Victoria Police is not seeking to prevent the
11:02:34 33 Commissioner from having access to it for the course of the
11:02:38 34 work that's being done.

11:02:41 35
11:02:41 36 COMMISSIONER: I understand that argument. Yes.
11:02:44 37

11:02:45 38 MS ARGIROPOULOS: Thank you. If I can move on to the next
11:02:47 39 document now. The next one is Exhibit RC11, and in fact
11:02:54 40 that's a matter that the entire argument in relation to
11:02:58 41 that concerns ██████████ so we'll defer that for another
11:03:03 42 time. The next document is RC112 and these are the lists
11:03:14 43 which have been described as the lists of persons who knew
11:03:21 44 that Ms Gobbo was a human source. There's really two
11:03:28 45 issues in relation to these documents. The first
11:03:34 46 submission that I make, and this is articulated in the
11:03:36 47 written submission at paragraph 17, is that the Victoria

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11:03:44 1 Police object to the publication of this exhibit at this
11:03:49 2 stage of the proceedings and the reason for that objection
11:03:53 3 is that even though it has been tendered in evidence
11:03:58 4 through Terry Purton and Wayne Cheesman, the document has
11:04:07 5 not yet been shown to any witness who has been able to
11:04:11 6 identify the document, provide any evidence about the
11:04:15 7 purpose or provenance of the document, and that evidence
11:04:19 8 will come, it's anticipated, in the next round of hearings
11:04:23 9 when the SDU handlers give evidence.
11:04:27 10
11:04:28 11 COMMISSIONER: Of course the Royal Commission isn't bound
11:04:30 12 by rules of evidence so that doesn't matter, does it?
11:04:33 13
11:04:34 14 MS ARGIROPOULOS: No, that is correct. The concern,
11:04:35 15 however, is that I am instructed and understand that the
11:04:38 16 evidence of the SDU handlers who prepared this document
11:04:43 17 will be that it's a document of people they thought knew
11:04:48 18 Ms Gobbo was a human source and there will be an
11:04:54 19 explanation as to how they have compiled the document and
11:04:58 20 the purposes for which that document was compiled. There's
11:05:01 21 no difficulty with, and certainly Victoria Police do not
11:05:04 22 object to its tender, and there's no difficulty with the
11:05:07 23 document being shown to witnesses during the hearings, the
11:05:11 24 objection is in relation to this document being published
11:05:14 25 on the website and available for public consumption at a
11:05:18 26 time when there's no contextual - - -
11:05:20 27
11:05:20 28 COMMISSIONER: To put it in context, yes.
11:05:22 29
11:05:22 30 MS ARGIROPOULOS: No contextual evidence about what this
11:05:27 31 document is and concerns for the names of the people that
11:05:30 32 are on this document if this becomes a public document
11:05:33 33 without that contextual evidence.
11:05:36 34
11:05:36 35 COMMISSIONER: I see.
11:05:37 36
11:05:37 37 MS ARGIROPOULOS: So that's the primary submission.
11:05:40 38
11:05:40 39 COMMISSIONER: I understand.
11:05:41 40
11:05:42 41 MS ARGIROPOULOS: On behalf of Victoria Police. If the
11:05:44 42 Commissioner is against us in relation to that submission,
11:05:45 43 then there is a secondary submission to be made which
11:05:49 44 relates to some of the names on the list. If necessary I
11:05:54 45 can call evidence from Mr Mahoney in relation to that today
11:05:59 46 but there are a number of names on that list - - -
11:06:02 47

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11:06:02 1 COMMISSIONER: Are they the names that are in green?
11:06:05 2
11:06:07 3 MS ARGIROPOULOS: Are they highlighted in green or - I have
4 a version that has red boxes around it.
5
11:06:14 6 COMMISSIONER: I have a version with green boxes, so
11:06:16 7 presumably they are the same names.
11:06:18 8
11:06:18 9 MS ARGIROPOULOS: Yes. So some of those names already have
11:06:21 10 pseudonyms assigned by this Royal Commission.
11
12 COMMISSIONER: Yes.
13
11:06:24 14 MS ARGIROPOULOS: But there are other names on this list
11:06:26 15 which Victoria Police would seek either a pseudonym or a
11:06:29 16 redaction of their names and in summary, it's because of
11:06:34 17 the nature of the duties they're undertaking in covert
11:06:39 18 roles or because they're working under assumed identities
11:06:43 19 similar to the basis upon which the handler SDU pseudonyms
11:06:47 20 have already been applied.
11:06:52 21
11:06:52 22 COMMISSIONER: That objection is going to remain even after
11:06:55 23 it's put in context, so that really does need to be sorted
11:06:58 24 out, doesn't it?
11:07:00 25
11:07:00 26 MS ARGIROPOULOS: Yes, it does need to be sorted out. I'm
11:07:02 27 in the Commissioner's hands as to whether we go through
11:07:06 28 that process of each individual now or whether that can be
11:07:09 29 done at a later time, it's really a matter for - if it's
11:07:13 30 not published we could perhaps do it in a confidential
11:07:16 31 affidavit or something prior to publication, but certainly
11:07:20 32 if you'd be assisted by hearing evidence now we could do
11:07:23 33 that now.
11:07:27 34
11:07:27 35 MR WOODS: Commissioner, I'm sorry to cut across what
11:07:31 36 Ms Argiropoulos is saying, would it assist you if I gave a
11:07:34 37 response to each as we go or would you rather that at the
11:07:39 38 end? I think it might be of assistance because this, for
11:07:41 39 example, I wouldn't argue against the fact - I would argue
11:07:43 40 against the first application in relation to this document
11:07:45 41 for various reasons but I wouldn't argue against the fact
11:07:49 42 that if there was, if the particular role that the person
11:07:52 43 worked in in that fourth column indicated that they had a
11:07:58 44 role that should be kept confidential, then that should be
11:08:01 45 redacted, the place that the person worked, or the
11:08:07 46 department that they worked within, but as for the - and
11:08:10 47 that in my submission would satisfy that concern. But as

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11:08:13 1 to the general application in relation to - I won't go into
11:08:16 2 that. Would you be assisted by me responding now or would
11:08:20 3 you rather hear all of the submissions?
11:08:22 4
11:08:23 5 COMMISSIONER: We're already about halfway through.
11:08:25 6
11:08:26 7 MR WOODS: All right, I'll leave it.
11:08:29 8
11:08:29 9 COMMISSIONER: We'll leave it I think.
11:08:31 10
11:08:31 11 MS ARGIROPOULOS: Thank you. Commissioner, would you like
11:08:33 12 to hear evidence about each of the names in respect to
11:08:37 13 which redaction or the application of a pseudonym is now
11:08:40 14 sought?
11:08:41 15
11:08:43 16 COMMISSIONER: We're probably going to have to do it at
11:08:46 17 some point.
11:08:46 18
11:08:46 19 MS ARGIROPOULOS: Yes. Yes, I agree.
11:08:48 20
11:08:48 21 COMMISSIONER: While we've got Mr Mahoney here, he's not
11:08:52 22 always easy to get, we might do it.
11:08:54 23
11:08:54 24 MS ARGIROPOULOS: Mr Mahoney, the first name which
11:08:56 25 redaction is sought is the name of [REDACTED] and that's
11:09:02 26 on the basis that that person already has a pseudonym
11:09:07 27 applied by the Royal Commission?---That's correct.
11:09:09 28
11:09:09 29 The next one is - - -
11:09:10 30
11:09:11 31 COMMISSIONER: I don't think there's any problem with
11:09:14 32 substituting a pseudonym at the Royal Commission there, is
11:09:17 33 there?
11:09:17 34
11:09:18 35 MR WOODS: I will be saying in relation to [REDACTED]
11:09:22 36 and some other issues that come up in Mr Kelly's statement,
11:09:25 37 the pseudonym that was provided for a particular reason a
11:09:28 38 couple of months ago doesn't necessarily persist.
11:09:28 39
11:09:28 40 COMMISSIONER: Cover everything, I understand.
11:09:28 41
11:09:30 42 MR WOODS: I will be submitting [REDACTED] is one of
11:09:35 43 them.
11:09:35 44
11:09:35 45 COMMISSIONER: That's okay, thank you.
11:09:36 46
11:09:36 47 MS ARGIROPOULOS: There is no other basis for that

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11:09:41 1 particular redaction, is there, for [REDACTED], apart
 11:09:43 2 from the fact he has a pseudonym in the Royal
 11:09:45 3 Commission?---My advice from Assistant Commissioner Neil
 11:09:47 4 Mr Paterson was that there was actually a Supreme Court
 11:09:51 5 suppression order which was based on his health which led
 11:09:53 6 to previous suppression and I believe that might have been
 11:09:59 7 part of the argument as to why his name was suppressed
 11:10:02 8 here.
 11:10:02 9
 11:10:02 10 COMMISSIONER: You think there is a current suppression
 11:10:05 11 order in respect of his name?---That's the advice I was
 11:10:09 12 given, or - sorry, the pseudonym was applied in a Supreme
 11:10:11 13 Court matter.
 11:10:11 14
 11:10:12 15 MS ARGIROPOULOS: I think, Commissioner, I'm not sure if
 11:10:14 16 that's right, we might need to make some inquiries about
 11:10:18 17 whether there is a suppression order. My understanding is
 11:10:21 18 that redaction was sought on the basis of the pseudonym
 11:10:24 19 that's already been applied in respect of that person.
 11:10:27 20
 11:10:27 21 COMMISSIONER: It seems that Mr Woods is going to say a
 11:10:32 22 pseudonym was given for a specific purpose that doesn't
 11:10:36 23 cover this.
 24
 25 MS ARGIROPOULOS: Yes.
 26
 11:10:37 27 COMMISSIONER: Perhaps you'll an opportunity to reply to
 11:10:43 28 that in due course. All right.
 11:10:43 29
 30 MS ARGIROPOULOS: Thank you Commissioner. The next name,
 31 ^{Wolf-O} is a person who already has a pseudonym in this
 11:10:46 32 Commission?---Yes.
 11:10:46 33
 11:10:48 34 COMMISSIONER: What about [REDACTED] is that not applied
 11:10:50 35 for?
 11:10:50 36
 11:10:51 37 MS ARGIROPOULOS: No, Commissioner, that's no longer
 11:10:52 38 sought.
 39
 40 COMMISSIONER: That's okay.
 41
 11:10:52 42 MS ARGIROPOULOS: That's a person who has already given
 11:10:55 43 evidence in the Commission under his real name.
 11:10:57 44
 11:10:58 45 COMMISSIONER: Exactly, yes.
 11:10:59 46
 11:10:59 47 MS ARGIROPOULOS: ^{Wolf-O} is the next one who already has a

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11:11:02 1 pseudonym, being one of the SDU handlers.
 11:11:06 2
 11:11:06 3 COMMISSIONER: Yes.
 11:11:06 4
 11:11:06 5 MS ARGIROPOULOS: The next one who is sought is ^{DS-Preston}
 11:11:09 6 who is in the same situation.
 11:11:12 7
 11:11:13 8 COMMISSIONER: So because ^{Wolf-O} already got a pseudonym
 11:11:15 9 as a handler, you're not - Mr Woods, you're happy with that
 11:11:19 10 one to be suppressed?
 11:11:22 11
 11:11:22 12 MR WOODS: All of the people who are handlers we don't
 11:11:24 13 contest, they should stay pseudonym-ised.
 11:11:28 14
 11:11:29 15 COMMISSIONER: Thank you.
 11:11:29 16
 11:11:30 17 MS ARGIROPOULOS: Perhaps if I focus then on the people who
 11:11:31 18 don't already have pseudonyms.
 11:11:34 19
 11:11:34 20 COMMISSIONER: Sure.
 11:11:35 21
 11:11:35 22 MS ARGIROPOULOS: The first person in that position is
 11:11:39 23 [REDACTED] ---That's correct. He was a [REDACTED]
 11:11:43 24 [REDACTED] at the [REDACTED] Unit, he held [REDACTED]
 11:11:47 25 [REDACTED].
 11:11:48 26
 11:11:48 27 That's the basis on which we'd seek either redaction of his
 11:11:52 28 name or the allocation of a pseudonym.
 11:11:55 29
 11:11:55 30 COMMISSIONER: Is there any argument, Mr Woods, with that
 11:11:57 31 one?
 11:11:58 32
 11:11:59 33 MR WOODS: Yes, it could be dealt with - if he was working
 11:12:02 34 under another name in that role, all that needs to be done
 11:12:08 35 is for the [REDACTED] to be redacted in our submission.
 11:12:10 36
 11:12:10 37 COMMISSIONER: Would that be sufficient, Mr Mahoney, to
 11:12:12 38 redact [REDACTED]?---Well - - -
 11:12:19 39
 11:12:20 40 There are two ways of doing it. You could redact [REDACTED] or
 11:12:24 41 the other alternative would be just to take out the surname
 11:12:28 42 and leave it as [REDACTED] My preference would
 11:12:32 43 be to anonymise the name because - - -
 11:12:36 44
 11:12:36 45 All right. Say why, yes?---Because it's hard to know what
 11:12:41 46 evidence or material might come out that may refer to him
 11:12:45 47 by his real name or by the assumed identity name and the

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11:12:49 1 two can be conflated together, then it creates a risk. So
11:12:55 2 it's just safer all round just to anonymise it again.
11:13:02 3
11:13:02 4 Just with these because there are so many I think it's
11:13:05 5 easiest to do it this way. Yes Mr Woods.
11:13:07 6
11:13:07 7 MR WOODS: Did [REDACTED] operate as an
11:13:12 8 [REDACTED] in the name of [REDACTED] --No.
11:13:17 9
11:13:17 10 Thank you.
11:13:19 11
11:13:20 12 COMMISSIONER: Okay.
11:13:20 13
11:13:21 14 MS ARGIROPOULOS: Thank you. Perhaps just one final
11:13:28 15 question: notwithstanding that he's not worked [REDACTED]
11:13:32 16 using that name, what's the concern about his name now
11:13:34 17 being published?---So his name, his real name will be in a
11:13:40 18 number of investigator's diaries, when they've had meetings
11:13:43 19 with the [REDACTED] and operations where - - -
11:13:47 20
11:13:47 21 COMMISSIONER: We're assuming now we take out [REDACTED] because
11:13:51 22 there's no objection to that. If we just had the name and
11:13:53 23 took out [REDACTED] - - - ?---You can still link potentially
11:13:58 24 [REDACTED] because they will be mentioned in diary
11:14:01 25 notes where there's meetings - there's always planning
11:14:04 26 meetings with investigators before [REDACTED]
11:14:07 27 and they generally meet with [REDACTED] and potentially
11:14:12 28 [REDACTED] and they will make notes, as
11:14:17 29 investigators do, of everything that goes on and then
11:14:19 30 there's operation names will be linked to those names.
11:14:24 31 Then there's the people who are the subject of those
11:14:26 32 operation names [REDACTED] and [REDACTED] and
11:14:30 33 then they can potentially conflate the two together.
11:14:34 34
11:14:34 35 You would be content with [REDACTED] ?---Yes, I'm
11:14:40 36 happy to leave in [REDACTED] The details in that
11:14:43 37 column on the right, some of those are actually inaccurate,
11:14:47 38 which doesn't help.
11:14:51 39
11:14:51 40 All right. But you're not happy to leave [REDACTED] there because
11:14:56 41 it is inaccurate, are you?---I don't care about having [REDACTED]
11:14:59 42 there because the reality is the [REDACTED] has been
11:15:03 43 involved in a number of operations involving informers and
11:15:06 44 Nicola Gobbo. It's only natural people would expect to see
11:15:10 45 an [REDACTED] I think it's best if they're just given
11:15:14 46 an alternative name or a pseudonym so it just can't be
11:15:19 47 identified who they are.

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11:15:20 1
11:15:20 2 Thank you.
11:15:22 3
11:15:22 4 MS ARGIROPOULOS: If we move on to the next person,
11:15:27 5 [REDACTED] ?---So he's actually again, he was [REDACTED], a
11:15:31 6 member of the [REDACTED] not a member of the State
11:15:36 7 Crime Surveillance Unit and Technical Surveillance Unit and
11:15:38 8 he also [REDACTED]
11:15:40 9
11:15:41 10 So really the same reason for - - - ?---Exactly, yes.
11:15:44 11
11:15:44 12 The next one, [REDACTED] already has a pseudonym. The next one
11:15:50 13 is [REDACTED] --So, I'm advised that [REDACTED] was an
11:15:56 14 analyst at the Source Development Unit, and whilst she
11:16:00 15 didn't hold a controlled operation, sorry, an [REDACTED]
11:16:04 16 [REDACTED] I put it to the Commission that there is a risk
11:16:08 17 to her and it's the same risk that would apply to ^{Ms Street}
11:16:13 18 ^{Ms Street} who is also an analyst, who was at the SDU and is
11:16:19 19 currently at the [REDACTED] and [REDACTED] and
11:16:23 20 there's another one, I'm just looking to find, ^{Mr Lane}
11:16:32 21 So ^{Mr Lane} was actually a public servant. So all these
11:16:38 22 people worked at the [REDACTED], sorry, at the Source
11:16:44 23 Development Unit and from my perspective there is a risk to
11:16:47 24 them that could easily emerge. And if I put it in this
11:16:53 25 context, the Royal Commission in my view has raised a
11:16:56 26 number of expectations from a number of people currently in
11:16:59 27 custody. A number of them probably believe that they are
11:17:04 28 owed some form of compensation or should be released.
11:17:09 29 Things might not go exactly how they perceive they should.
11:17:13 30 This is likely to cause frustration and anger and if any of
11:17:17 31 that anger is directed towards the Source Development Unit,
11:17:23 32 well the operatives and the handlers, they're already
11:17:26 33 protected by virtue that they've been anonymised. Also,
11:17:29 34 because they were in the field managing human sources they
11:17:33 35 are aware of trade craft [REDACTED]
11:17:39 36 [REDACTED] and things like that. Whereas an analyst
11:17:42 37 in those units probably has a perfectly normal social media
11:17:45 38 depiction of their family and could be easily identified
11:17:49 39 and potentially targeted if someone wanted to somehow find
11:17:54 40 out information about former SDU members. Personally, if I
11:17:58 41 had an issue and I wanted to locate any member of the SDU
11:18:01 42 that would be my first choice, because they're low hanging
11:18:06 43 fruit, they'd be less resilient, less trained, easier to
11:18:09 44 find, easier to influence.
11:18:12 45
11:18:12 46 Commissioner, I might just - - -
11:18:14 47

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11:18:15 1 MR WOODS: I just said to my learned friend if, on the same
11:18:17 2 basis that the handlers and controllers in the SDU are
11:18:22 3 given pseudonyms, the same logic should apply to an analyst
11:18:28 4 within the SDU.
11:18:29 5
11:18:29 6 COMMISSIONER: What if we just took out their surname and
11:18:33 7 then left [REDACTED] and then the first initial [REDACTED] rather than
11:18:38 8 giving them a pseudonym, because they're not likely to
11:18:42 9 feature again anyway.
10
11 MR WOODS: They're not likely to come up again.
12
11:18:42 13 COMMISSIONER: Would that be suitable to you?---Yes,
11:18:44 14 certainly.
11:18:44 15
11:18:44 16 So we've agreed that one. With those four we've agreed
11:18:46 17 that that's how we will proceed. The surname comes out and
11:18:50 18 just the first initial. So you can see their rank and the
11:18:55 19 first initial of their name.
11:18:58 20
11:18:58 21 MS ARGIROPOULOS: Thank you Commissioner. I wonder if it
11:19:00 22 might be convenient if we just identify other people who
11:19:03 23 are in that position. The next person is [REDACTED]
11:19:08 24 Mr Mahoney, is he in a similar situation in that he was in
11:19:12 25 charge of the registry at the Human Source Management
11:19:16 26 Unit?---That's correct.
11:19:17 27
11:19:17 28 I'm not sure if Mr Woods would make the same concession in
11:19:21 29 relation to that role.
11:19:23 30
11:19:24 31 COMMISSIONER: Is he not a police officer?---Yes, he is.
11:19:26 32
11:19:27 33 He is a police officer?---Yes.
11:19:28 34
11:19:28 35 MR WOODS: No, on the basis that he is privy to the same
11:19:31 36 information that an analyst is privy to and I ask that that
11:19:35 37 question be asked. The answer is yes, then the same logic
11:19:40 38 should apply.
11:19:41 39
11:19:42 40 MS ARGIROPOULOS: Mr Mahoney, is a person in [REDACTED]
11:19:48 41 position, the officer-in-charge of the Human Source
11:19:52 42 Management Unit registry, privy to the same information as
11:19:55 43 an analyst at the SDU?---They'd be, they'd have full access
11:20:01 44 to every single person who is a registered human source and
11:20:04 45 access to all their contact reports and material, so yes.
11:20:07 46
11:20:07 47 COMMISSIONER: What would his rank have been at this time,

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11:20:14 1 or even now, now will do?---Now [REDACTED] I
11:20:19 2 think he would have been a [REDACTED] possibly.
11:20:26 3
11:20:29 4 How will he be described? Perhaps his rank.
11:20:35 5
11:20:36 6 MS ARGIROPOULOS: [REDACTED] perhaps.
11:20:37 7
11:20:38 8 MR WOODS: His rank would work. Just pausing there though,
11:20:41 9 I should make it clear that each of these people have been
11:20:44 10 requested to provide witness statements and that the orders
11:20:47 11 that are being made in relation to this document shouldn't
11:20:49 12 be taken to be orders that persist once those statements
11:20:52 13 come in, they shouldn't be drafted in a form of redactions.
11:20:56 14 We'll have to have that argument if we need to later on,
11:21:02 15 but yes, the rank would work.
11:21:03 16
11:21:03 17 MS ARGIROPOULOS: Yes, that's understood, thank you. If we
11:21:05 18 move on to the next, the next name, [REDACTED] is
11:21:14 19 currently still engaged in [REDACTED], in a [REDACTED]
11:21:18 20 [REDACTED] and holds [REDACTED]
11:21:21 21
11:21:22 22 Again, in that sense in a similar position to an SDU
11:21:25 23 handler?---Yes, he's not doing SDU work but certainly his
11:21:30 24 identity shouldn't be at risk of exposure.
11:21:36 25
11:21:36 26 COMMISSIONER: Yes. Mr Woods, did you have some questions?
11:21:40 27
11:21:40 28 MR WOODS: I'm sorry, I was just getting instructions on
11:21:44 29 something else at that moment. [REDACTED], again in
11:21:48 30 my submission simply taking out the work area would be
11:21:51 31 sufficient. Where it's recorded and where it's not
11:21:56 32 recorded and the person is currently working [REDACTED]
11:21:59 33 [REDACTED] then nothing comes of it in my submission.
11:22:03 34
11:22:03 35 MS ARGIROPOULOS: And you've already given evidence,
11:22:07 36 Mr Mahoney, in relation to previous persons as to why
11:22:09 37 that's not sufficient?---That's correct. It is simple as
11:22:12 38 someone could [REDACTED] and [REDACTED]
11:22:16 39 [REDACTED] and they might be steered towards
11:22:21 40 [REDACTED] They might not
11:22:24 41 get any further but then even the fact they can't get
11:22:27 42 further would suggest that this [REDACTED].
11:22:32 43 So my preference is not, not to remove the unit but rather
11:22:38 44 alter the name.
11:22:40 45
11:22:40 46 In your view would publication of the name have any impact
11:22:45 47 on that person's ability to undertake their current

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11:22:48 1 role?---Potentially it could. If it is conflated with his
11:22:52 2 [REDACTED] it definitely could.

11:22:55 3
11:22:55 4 The next name is ^{Richards-O} [REDACTED] -He's a former member of the, he
11:23:01 5 was a former handler of the Source Development Unit.

11:23:07 6
11:23:07 7 The next couple already have pseudonyms assigned. The next
11:23:12 8 one is ^{Ms Street} [REDACTED] --So she falls back into the same argument
11:23:18 9 as [REDACTED] in terms of being an analyst.

11:23:24 10
11:23:24 11 COMMISSIONER: We've dealt with that, haven't we?
12

11:23:26 13 MS ARGIROPOULOS: Yes, an SDU analyst. And the next one
11:23:28 14 down the list is ^{Mr Lane} [REDACTED] in the same position.

11:23:31 15
11:23:31 16 COMMISSIONER: We've dealt with her, yes, you've dealt with
11:23:34 17 her.

11:23:35 18
11:23:36 19 MS ARGIROPOULOS: [REDACTED] Again, he's, [REDACTED]
11:23:41 20 [REDACTED] and [REDACTED] I
11:23:45 21 believe he has since retired however his name would be in
11:23:55 22 many, many diaries of investigators as a [REDACTED] at
11:24:00 23 the Surveillance Unit, he would have been the go-to person
11:24:03 24 for updates on matters by investigators. And a number of
11:24:11 25 persons are behind bars due to the efforts of the
11:24:14 26 Surveillance Unit, so again it's, it's a name that I'd
11:24:19 27 prefer not to have in the public.

11:24:25 28
11:24:25 29 [REDACTED] ---He was also at [REDACTED]
11:24:30 30 [REDACTED]

11:24:31 31
11:24:31 32 As a handler, yes. ^{Richards-O} [REDACTED] we've already dealt with earlier.
11:24:39 33 [REDACTED] - [REDACTED] he is currently working in a
11:24:43 34 [REDACTED]

11:24:47 35
11:24:47 36 [REDACTED] --- [REDACTED] sorry, she was also at the SDU as an
11:24:52 37 analyst. [REDACTED] missed her before.

11:24:57 38
11:24:57 39 [REDACTED] --Again, a source handler at the SDU.

11:25:01 40
11:25:03 41 And [REDACTED] I think you've already referred to
11:25:08 42 [REDACTED] I believe was an analyst or an admin
11:25:11 43 assistant.

11:25:12 44
11:25:12 45 At the SDU?---I'm not 100 per cent sure. Yeah, I cannot be
11:25:19 46 sure.
11:25:22 47

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11:25:25 1 COMMISSIONER: I've got a box around [REDACTED]
 11:25:28 2
 11:25:29 3 MS ARGIROPOULOS: Yes, and [REDACTED] is the last one that I
 11:25:32 4 have a box around?---Again, [REDACTED] was in [REDACTED]
 11:25:35 5 [REDACTED] as [REDACTED], at the [REDACTED] and held an
 11:25:39 6 [REDACTED] he's currently retired but again it's, the same issue
 11:25:44 7 as outlined before in terms of preference for his name to
 11:25:50 8 be redacted rather than the unit.
 11:25:53 9
 11:25:53 10 When you say [REDACTED] you're talking about [REDACTED] - -
 11:25:54 11 -?-- [REDACTED] sorry.
 11:25:56 12
 11:25:56 13 Again, the persons on the second page they're all covered
 11:26:00 14 already, there's nobody additional on that second page.
 11:26:03 15
 11:26:04 16 COMMISSIONER: So ^{Richards-O} doesn't, a few of them don't have
 11:26:07 17 pseudonyms but have already been dealt with before.
 11:26:11 18
 11:26:11 19 MS ARGIROPOULOS: Yes, it's really a question for the
 11:26:13 20 Commissioner whether the preference would be to assign
 11:26:17 21 pseudonyms rather than - - -
 11:26:18 22
 11:26:18 23 COMMISSIONER: I don't think it's necessary if they're not
 11:26:21 24 going to feature.
 25
 26 MS ARGIROPOULOS: No, well some of these people I don't
 11:26:22 27 expect would feature although there has been a request made
 11:26:25 28 for statements from everybody effectively who's on this
 11:26:28 29 list. So that may need to be dealt with at a later stage.
 11:26:32 30
 11:26:33 31 COMMISSIONER: Okay.
 11:26:34 32
 11:26:34 33 MS ARGIROPOULOS: If we can move on to the next, the next
 11:26:39 34 exhibit after that, the next few actually concern [REDACTED]
 11:26:42 35
 11:26:43 36 COMMISSIONER: Because this one was so complicated it might
 11:26:46 37 be just worth dealing with this one I think now.
 38
 11:26:48 39 MS ARGIROPOULOS: Certainly.
 11:26:48 40
 11:26:49 41 MR WOODS: Yes. I don't seek to cross-examine on this one,
 11:26:52 42 Commissioner, other than I just want to make a brief
 11:26:55 43 submission to you. Where as with some of these individuals
 11:26:59 44 their name appears and the evidence was given that person
 11:27:03 45 works or did work in [REDACTED], for example, [REDACTED]
 11:27:09 46 [REDACTED], the location of work that's recorded
 11:27:15 47 next to them is Operation Purana. Now whether or not they

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11:27:18 1 worked at [REDACTED] at one stage or another stage is
11:27:22 2 neither here nor there. In relation to those individuals
11:27:25 3 and a few others it doesn't say so in this document. So
11:27:28 4 nothing is disclosed. Secondly, in relation to those who
11:27:34 5 did work, and it's recorded here whether correctly or
11:27:38 6 erroneously that they did work [REDACTED], the
11:27:42 7 simple removal of the location of work would suffice to
11:27:45 8 protect any of the issues that are raised. There was some
11:27:48 9 vague evidence given about a preference that they be
11:27:52 10 removed and the possibility to conflate a number of
11:27:55 11 different things, but in my submission the people work
11:28:00 12 [REDACTED] that goes without saying, those
11:28:03 13 who they were surveilling or involved with in the criminal
11:28:11 14 element obviously didn't know their name. The name on this
11:28:15 15 page is not going to disclose anything to them. These
11:28:18 16 might - - -

11:28:18 17
11:28:19 18 COMMISSIONER: Is there any advantage though in having the
11:28:21 19 name there in terms of the Commission?

11:28:23 20
11:28:23 21 MR WOODS: Well, there probably will be with many of them
11:28:26 22 because we've asked all of them - this is a very important
11:28:29 23 document this one, this is a who knew what when. We don't
11:28:33 24 have any dates recorded there. But this was the SDU
11:28:36 25 themselves trying to monitor about who knew about Nicola
11:28:42 26 Gobbo. The second Term of Reference is the focus of these
11:28:46 27 hearings. Who knew about Nicola Gobbo and what the SDU,
11:28:49 28 what information they were getting from Nicola Gobbo and
11:28:52 29 the fact that she was registered, is really fundamental to
11:28:55 30 the second Term of Reference, so this is an important
11:28:59 31 document and were it to be largely redacted and have these
11:29:02 32 names removed it would be a largely irrelevant document
11:29:07 33 when as it stands now it's a very relevant document. So
11:29:10 34 we've asked for statements from all of these people. We'll
11:29:13 35 wait to see what they say. It sounds like some of them
11:29:16 36 will say, "Well, my work location is incorrect on that
11:29:19 37 document", or, "Yes, I knew but I knew later than what it
11:29:22 38 appears to be the case there". With the SDU people,
11:29:25 39 including the analysts and others associated with them
11:29:29 40 given the same treatment as the handlers themselves, that
11:29:34 41 issue is dealt with and otherwise the individuals, the
11:29:41 42 position of work where it indicates whether correctly or
11:29:45 43 incorrectly that they were in covert support, once that's
11:29:49 44 removed then this is an entirely benign document in my
11:29:53 45 submission other than identifying names. On the first
11:29:55 46 issue that's raised by Victoria Police in relation to the
11:29:59 47 document, as to whether or not it really, it goes in at all

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11:30:05 1 was my understanding, because there's things in it that
11:30:09 2 Victoria Police don't agree with, there's locations of
11:30:13 3 work, et cetera, et cetera, there may be some things that
11:30:17 4 need to be dealt with.
11:30:18 5
11:30:19 6 COMMISSIONER: From what you say though, their point is at
11:30:21 7 this stage the provenance of the document is not known,
11:30:25 8 there's not much weight. If this all goes out and these
11:30:27 9 names go out as it is at the moment before we've heard
11:30:30 10 about the context and heard from the handlers, it could be
11:30:34 11 misinformation effectively. So what would be wrong with it
11:30:40 12 remaining a confidential exhibit at this stage until we're
11:30:44 13 in a better position, you've got statements from these
11:30:46 14 people and everyone's in a better position to know the
11:30:48 15 effect of it?
11:30:49 16
11:30:50 17 MR WOODS: If that's what the Commissioner is content to do
11:30:53 18 - - -
11:30:53 19
11:30:53 20 COMMISSIONER: I haven't made a decision or made up my
11:30:56 21 mind, I'm just saying what's wrong with that approach?
11:30:59 22
11:31:00 23 MR WOODS: What I would submit is that the better approach
11:31:02 24 would be that it is an exhibit that's tendered, it is made
11:31:05 25 public and each of these individuals as they've been asked
11:31:07 26 to do give their evidence about what's in the document.
11:31:10 27 Just because a document might be incorrect in some regards,
11:31:13 28 and I'm not entirely sure what regards it is, we've been
11:31:17 29 told from the Bar table today that this is an SDU document
11:31:23 30 that's been confirmed, it's something that the handlers put
11:31:27 31 together to monitor who knew that Nicola Gobbo was
11:31:31 32 providing information. If it's the case that there's
11:31:33 33 evidence to be given down the track that there are
11:31:39 34 inaccuracies in the document, then they can be given. It's
11:31:41 35 a very long way down the track on the current analysis
11:31:47 36 until we find out from these people whether or not the
11:31:49 37 document's correct and whether or not they had information
11:31:50 38 about Nicola Gobbo's activities.
11:31:51 39
11:31:52 40 COMMISSIONER: Who was the document tendered through, do
11:31:54 41 you remember?
11:31:55 42
11:31:55 43 MR WOODS: It was Mr Purton. Look, there's obviously
11:32:04 44 evidence that's going to be given by the handlers,
11:32:07 45 presumably one of them or a number of them added to this
11:32:11 46 document over time. Their evidence will be commencing on
11:32:15 47 22 July. The fact - it's in my submission not the proper

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11:32:23 1 way to go to not accept the evidence until the contrary
11:32:30 2 evidence is put on. The evidence in my submission should
11:32:32 3 be accepted, should be tendered, should be made public and
11:32:35 4 then it can be answered by those who disagree with it.
11:32:39 5 That's the submission.
11:32:41 6
11:32:41 7 COMMISSIONER: Yes, Mr Chettle. You might have something
11:32:43 8 helpful to say.
11:32:44 9
11:32:44 10 MR CHETTLE: Yes, I do Commissioner. Can I indicate this
11:32:47 11 document gets before you at the moment really to, on two
11:32:51 12 bases. Firstly Purton says, "Yes, I knew" and he gave
11:32:56 13 evidence to you about what he knew. Secondly, it became
11:33:00 14 relevant because Cheesman came along and said, "I didn't
11:33:03 15 know even though my name is on it". There will be evidence
11:33:06 16 given how this document came into existence, why it came
11:33:09 17 into existence, by my clients collectively, and I support
11:33:14 18 the first submission of the Chief Commissioner really, it's
11:33:18 19 premature, it has no evidentiary value at the moment until
11:33:21 20 the basis for its - no one loses by getting it later. It's
11:33:26 21 misinformation at the moment because Cheesman didn't know
11:33:29 22 and you might recall the evidence that it was a mistake
11:33:32 23 made by Mr Jones as to, and the reasons for that are
11:33:37 24 apparent when one looks at his diary where he had
11:33:41 25 Cheesman's name, hence why Cheesman appeared on this list.
11:33:44 26 I put it to Cheesman and he said, "Yes, it was clearly a
11:33:48 27 mistake made by Mr Jones". As to, for example - that's all
11:33:54 28 I'll say about that but I want to say one other thing.
11:33:55 29 Reference was made to the name of [REDACTED] he should be -
11:33:59 30 he's in exactly the same boat as my clients because he
11:34:03 31 attended a meeting with Nicola Gobbo and participated in a
11:34:07 32 lengthy discussion with her and you will have the
11:34:10 33 transcripts and the ICRs that relate to him. There are
11:34:14 34 good reasons why he was there, but there are good reasons
11:34:17 35 why his name shouldn't be mentioned. Other than that,
11:34:21 36 Commissioner, I support the Chief Commissioner.
11:34:25 37
11:34:25 38 COMMISSIONER: Did you want to respond to Mr Chettle,
11:34:28 39 Mr Woods?
11:34:29 40
11:34:29 41 MR WOODS: No, no, I think you're in a good position with
11:34:33 42 respect, Commissioner, to make a determination.
11:34:35 43
11:34:36 44 COMMISSIONER: Yes.
11:34:36 45
11:34:37 46 MS ARGIROPOULOS: Thank you Commissioner. I'll move on to
11:34:38 47 the next exhibit. The next couple concern [REDACTED], so we

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11:34:43 1 won't deal with 113, 120 or 127 or 128 today. That leaves
11:34:53 2 only two matters to deal with and you'll be pleased to hear
11:34:56 3 they are quite short. RC133 is an information report
11:35:03 4 concerning a meeting with Terry Hodson and there's a number
11:35:14 5 of redactions sought to that document. The first category
11:35:19 6 of redactions relate to there be references to a rumour
11:35:28 7 that Miechel has prepared a statement. Mr Mahoney, what's
11:35:34 8 the concern in relation to those matters?
11:35:41 9
11:35:42 10 COMMISSIONER: Can I just make sure I'm looking at the
11:35:44 11 right thing here. Is this B, the source development, the
11:35:50 12 heading - - -
11:35:52 13
11:35:52 14 MR WOODS: It's at the end of your tab 13, Commissioner,
11:35:55 15 the last two pages of that document.
11:35:57 16
11:35:57 17 COMMISSIONER: The end of tab 13, thank you.
11:36:00 18
11:36:00 19 MS ARGIROPOULOS: It's a document which has a VPL number
11:36:03 20 that ends with 0267.
11:36:06 21
11:36:06 22 COMMISSIONER: Yes, I've got it now. Thank you.
11:36:08 23
11:36:09 24 MS ARGIROPOULOS: And does the Commissioner have a version
11:36:11 25 that has redactions - - -
11:36:15 26
11:36:15 27 COMMISSIONER: In red.
11:36:15 28
11:36:17 29 MS ARGIROPOULOS: In red and the first one starts "one
11:36:20 30 rumour is"?
11:36:20 31
11:36:20 32 COMMISSIONER: Yes.
11:36:21 33
11:36:21 34 MS ARGIROPOULOS: We're dealing now with those first two
11:36:24 35 redacted dot points that both refer to rumours that Miechel
11:36:28 36 has prepared a statement.
11:36:28 37
11:36:29 38 COMMISSIONER: Yes.
11:36:30 39
11:36:30 40 MS ARGIROPOULOS: Mr Mahoney, what's your evidence in
11:36:32 41 relation to those claims?---I actually thought these had
11:36:37 42 been accepted but as such I haven't given it too much
11:36:44 43 thought. But Miechel being a corrupt police officer and,
11:36:53 44 to be honest, those first two, I don't actually have that
11:36:57 45 big an issue with them, with the redaction being removed,
11:37:01 46 other than to say that anyone assisting police, if they are
11:37:05 47 in prison then they are at risk.

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11:37:07 1
 11:37:07 2 I beg your pardon, I'm sorry. I'm just being told by my
 11:37:12 3 instructor as well that those redactions have been accepted
 11:37:17 4 by counsel assisting. I'm not sure if Mr Woods can assist
 11:37:21 5 us with that.
 11:37:22 6
 11:37:22 7 COMMISSIONER: The witness thinks they've been accepted by
 11:37:24 8 the Crown as not justified, by VicPol as not justified and
 11:37:31 9 you thought the opposite.
 11:37:33 10
 11:37:34 11 MR WOODS: I'd understood the word Miechel had been
 11:37:38 12 accepted was my own understanding of it.
 11:37:41 13
 11:37:42 14 COMMISSIONER: What, that Miechel is out or in?
 11:37:45 15
 11:37:46 16 MR WOODS: At least counsel assisting had indicated their
 11:37:50 17 acceptance that if the word Miechel came out of those two
 11:37:53 18 sentences, was redacted out and simply blacked out without
 11:37:57 19 a pseudonym, that that would be sufficient for those
 11:38:00 20 purposes but the evidence from Victoria Police is they
 11:38:03 21 don't seem to take issue with the entire thing being
 11:38:07 22 unredacted, as I understood the evidence?---No, in regards
 11:38:10 23 to those first two dot points. The first two redactions
 11:38:14 24 that are made in regards to Miechel, the fact is that I'm
 11:38:19 25 not even sure if Miechel is in custody or not, I don't
 11:38:23 26 believe he is.
 11:38:23 27
 11:38:23 28 COMMISSIONER: He's not. He has given evidence at the
 11:38:26 29 Commission and he is out of custody now?---Then I think, I
 11:38:30 30 don't see any great risk about that being unredacted, those
 11:38:34 31 first two dot points redacted.
 11:38:39 32
 11:38:39 33 COMMISSIONER: You're not pursuing that now?
 11:38:41 34
 11:38:41 35 MS ARGIROPOULOS: Those are no longer pressed, thank you
 11:38:42 36 Commissioner. If we can go to the bottom, the last
 11:38:45 37 redaction on that page, the words, [REDACTED]
 11:38:49 38 [REDACTED], is there
 11:38:53 39 a concern about the reference to [REDACTED]
 11:38:57 40 [REDACTED]?---Yes. There is concern and if this, if you
 11:39:02 41 read this in line with the dot point over the page, the
 11:39:06 42 first dot point, "[REDACTED]
 11:39:10 43 [REDACTED]", well - - -
 11:39:16 44
 11:39:16 45 COMMISSIONER: It's Terry Hodson. No?---No, I think of
 11:39:24 46 this in terms [REDACTED] he is inferring [REDACTED]
 11:39:28 47 [REDACTED]. I can confirm that that is actually

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11:39:32 1 the fact. So that's why, it's again, it's - we wouldn't
11:39:38 2 want this to be published because then there's a
11:39:41 3 possibility that other people might try and identify who
11:39:46 4 that person is.
11:39:46 5
11:39:47 6 It might be that Mr Woods thought it was Terry Hodson.
7
11:39:50 8 MR WOODS: No, in fact I didn't. My position in relation
11:39:52 9 to that is all the sentence says is that Nicola Gobbo
11:39:55 10 thinks that Dale [REDACTED]
11:39:58 11 [REDACTED]. It doesn't - - -
11:40:02 12
11:40:02 13 COMMISSIONER: And it's [REDACTED] that
11:40:04 14 got [REDACTED]. Which is pretty specific.
11:40:11 15 I'm sure that [REDACTED]
11:40:14 16
11:40:14 17 MR WOODS: Sorry, I hadn't turned the page over. Yes.
11:40:23 18
11:40:23 19 COMMISSIONER: It's probably really only the one over the
11:40:26 20 page that needs to be removed, but if you're [REDACTED]
11:40:29 21 [REDACTED] in what does it matter?
11:40:32 22
11:40:32 23 MR WOODS: I think that might be right?---Commissioner,
11:40:35 24 it's [REDACTED]
11:40:37 25
11:40:37 26 COMMISSIONER: It's [REDACTED], it's someone else?---It's
11:40:40 27 someone else.
11:40:41 28
11:40:41 29 In that case you probably just need to remove that top
11:40:44 30 line, that would solve the issue then, wouldn't it?---I
11:40:47 31 would argue that having a line left in that says, "Gobbo
11:40:51 32 thinks Dale [REDACTED]
11:40:56 33 [REDACTED]" and then a redaction, that the redaction
11:40:57 34 itself would go to confirm the statement before it. It
11:41:00 35 takes out a bit of specific information that might help
11:41:03 36 narrow down anyone trying to identify who that would be,
11:41:07 37 but then you've still got the timing of, all the rest of
11:41:11 38 the information which puts it in context of location, time
11:41:15 39 and place as to who Dale and Miechel might have been
11:41:20 40 engaged with and dealing with around those times.
11:41:27 41
11:41:28 42 MR WOODS: Commissioner, the position is this: the fact
11:41:31 43 that a person thought that, [REDACTED]
11:41:36 44 [REDACTED]
11:41:39 45 who is not named, if the claim is PII, I can't possibly
11:41:46 46 imagine how PII is made out in those circumstances.
11:41:50 47 There's no identity. There is no substance of information.

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11:41:55 1 In those circumstances I'd submit that there's no need to
11:42:00 2 redact either the bottom line of that page or the top line
11:42:03 3 of the next page?---Commissioner, if I could say that in
11:42:09 4 that, around that time the people involved in Dale and
11:42:12 5 Miechel would know exactly who was who. It would be a
11:42:17 6 relatively small group of people that were involved and I
11:42:21 7 can give evidence to say [REDACTED]
11:42:24 8 [REDACTED] and with such a small group it would be
11:42:29 9 very simple to work out who that is and having one
11:42:32 10 redaction and not another, having just the top of the
11:42:36 11 second page redacted, might be enough for someone to form a
11:42:41 12 conclusion that, "Okay, well, that person, I was a bit
11:42:45 13 suspicious on them, [REDACTED] It
11:42:49 14 doesn't take much.
11:42:50 15
11:42:51 16 COMMISSIONER: I understand. Is there anything else in
11:42:54 17 that - - -
11:42:54 18
11:42:54 19 MS ARGIROPOULOS: In that document, yes. Over the page
11:42:58 20 there's a reference to Miechel is on board with ESD. Is
11:43:02 21 that pressed?---No, that one's not pressed on the same
11:43:06 22 basis as the earlier ones.
11:43:08 23
11:43:08 24 Yes, and the final redactions p.2 of that document refer to
11:43:16 25 involvement [REDACTED]---Correct, I would like to press
11:43:19 26 them. Again, in terms of if it was not redacted then it
11:43:26 27 could potentially expose [REDACTED] in terms of it may
11:43:32 28 not have been declared in evidence, [REDACTED]
11:43:35 29 [REDACTED] It would be actually confirmed that there
11:43:45 30 was [REDACTED]
11:43:50 31
11:43:50 32 Yes, thank you.
11:43:51 33
11:43:51 34 COMMISSIONER: Did you want to ask any questions about that
11:43:53 35 last point?
11:43:54 36
11:43:55 37 MR WOODS: No, just a brief submission which is that the
11:43:57 38 mere involvement of [REDACTED] from - it doesn't
11:44:01 39 sound like it's put on the basis of methodology, it sounds
11:44:05 40 like it's put specifically. Mr Hodson obviously is
11:44:09 41 deceased. He had received samples of tablets [REDACTED]
11:44:13 42 [REDACTED] Hodson does not know who [REDACTED]
11:44:17 43 [REDACTED] or how they got in. The evidence wasn't
11:44:21 44 given in any direct sense about how someone could link that
11:44:25 45 evidence to who [REDACTED] who presumably wasn't
11:44:28 46 [REDACTED] either?---Commissioner, if I could
11:44:31 47 address that because it is common methodology for an

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11:44:34 1 [REDACTED], when [REDACTED]
11:44:38 2 into a drug area it can be done in a number of ways and a
11:44:42 3 common way [REDACTED] and - [REDACTED]
11:44:48 4 [REDACTED]. Now, the methodology that's used is [REDACTED]
11:44:51 5 to [REDACTED] from whoever [REDACTED]
11:44:57 6 [REDACTED]. That can be done in a number of ways
11:45:01 7 and often we like to [REDACTED] who is [REDACTED]
11:45:04 8 the [REDACTED] that [REDACTED] was [REDACTED]
11:45:10 9 [REDACTED], a [REDACTED] that [REDACTED] to police, not an
11:45:13 10 [REDACTED]. Because if they believe that then
11:45:15 11 it creates safety for [REDACTED] that did
11:45:18 12 [REDACTED]. So to declare that it was [REDACTED]
11:45:23 13 [REDACTED], if the methodology used on this occasion was an
11:45:26 14 [REDACTED] it would then put that
11:45:29 15 [REDACTED] at risk. Now I can't say specifically if that
11:45:33 16 was the case but that's how [REDACTED] by
11:45:37 17 exposing someone [REDACTED], can inevitably
11:45:42 18 lead someone to identify the [REDACTED] of who [REDACTED]
11:45:46 19 [REDACTED]
11:45:49 20 [REDACTED]

11:45:49 21 COMMISSIONER: All right.

11:45:58 22
11:45:58 23 MR WOODS: Commissioner, I've been handed a note that the
11:46:01 24 media have asked if the proceeding can be adjourned until
11:46:05 25 their counsel arrive who I'm told is on their way down.
11:46:09 26 Presumably in relation to the application to close the
11:46:13 27 hearing that occurred this morning. I don't have any
11:46:15 28 submission to make about that on their behalf obviously or
11:46:19 29 against it, it's just a matter that I thought I should
11:46:22 30 raise because it was raised with me.
11:46:24 31

11:46:24 32 COMMISSIONER: No. I'm refusing that application.
11:46:27 33

11:46:27 34 MS ARGIROPOULOS: Thank you Commissioner. We only have one
11:46:29 35 exhibit remaining.
11:46:30 36

11:46:30 37 COMMISSIONER: I might just deal with this one now because
11:46:32 38 it's, while it's fresh in my mind. In respect of this -
11:46:38 39 did you say this is 113, is it?
11:46:41 40

11:46:41 41 MS ARGIROPOULOS: That's correct.
11:46:42 42

11:46:42 43 COMMISSIONER: Exhibit 113.
11:46:44 44

11:46:44 45 MS ARGIROPOULOS: 133.
11:46:45 46

11:46:45 47 COMMISSIONER: 133.

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11:47:03 1 COMMISSIONER: Exhibit 113 will remain as a confidential
11:47:03 2 affidavit and then that will be 113A. 133B will be the
11:47:03 3 redacted exhibit which will have the redactions that is
11:47:09 4 involved with [REDACTED]
11:47:12 5 [REDACTED]. Over the page, "[REDACTED]
11:47:19 6 [REDACTED]", that will come
11:47:24 7 out because [REDACTED]. And also the words
11:47:30 8 [REDACTED] and [REDACTED]
11:47:32 9 [REDACTED] will also come out.

11:47:38 10
11:47:38 11 MS ARGIROPOULOS: Thank you, Commissioner. The final
11:47:40 12 exhibit is RC134 which is the transcript of the record of
11:47:46 13 interview conducted by Murray Gregor and Terry Hodson. I
11:47:49 14 understand that the redactions sought are agreed by counsel
11:47:54 15 assisting. In fact, these were suggested by counsel
11:47:57 16 assisting as an alternative to other redactions.
11:48:01 17 Effectively these redactions are directed towards
11:48:07 18 information which could identify the premises from which
11:48:11 19 surveillance was being conducted of 23 Dublin Street.

11:48:16 20
11:48:17 21 COMMISSIONER: Yes.

11:48:18 22
11:48:18 23 MS ARGIROPOULOS: So the redactions are sought with respect
11:48:20 24 of questions 76 through to 80 where we would seek to have
11:48:27 25 the word "rear" redacted and the address, [REDACTED]
11:48:36 26 replaced instead with the phrase "a street address". Those
11:48:44 27 redactions would have the effect that a person could not
11:48:47 28 then identify the specific house in Dublin Street from
11:48:51 29 which surveillance was conducted.

11:48:54 30
11:48:54 31 MR WOODS: That's agreed.

11:48:55 32
11:48:55 33 COMMISSIONER: That's agreed, okay. Let's concentrate on
11:48:56 34 the ones that aren't agreed.

11:49:00 35
11:49:01 36 MS ARGIROPOULOS: Yes, and that's the end of the exhibits
11:49:01 37 that we're able to deal with today. The remainder of those
11:49:02 38 concern [REDACTED]

11:49:02 39
11:49:03 40 COMMISSIONER: All right. I'm assuming if no one's said
11:49:04 41 anything there are no submissions that anybody at the Bar
11:49:07 42 table wants to make. I know I have to go back. We've been
11:49:10 43 a bit all over the place here.

11:49:12 44
11:49:13 45 MR WOODS: Yes.

11:49:13 46
11:49:24 47 COMMISSIONER: So I think that's Exhibit 84, Mr Woods, is

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11:49:27 1 that the first one?
11:49:28 2
11:49:29 3 MR WOODS: Yes. Exhibit 83. So this is the information
11:49:40 4 report. We had understood that Mr Holt had indicated to
11:49:50 5 the Commission a concession after Mr Strawhorn's evidence
11:49:54 6 that there would be disclosure of relevant matters to
11:49:57 7 [REDACTED]. This is abundantly obvious, that this is a
11:50:06 8 document that needs to be disclosed to [REDACTED]
11:50:10 9
11:50:10 10 COMMISSIONER: Yes.
11:50:11 11
11:50:11 12 MR WOODS: If [REDACTED] hasn't received disclosure yet
11:50:15 13 that's a very, very troubling thing because that was
11:50:19 14 provided some significant time ago and it was told to the
11:50:24 15 Commission that [REDACTED] would be disclosed to. This
11:50:30 16 document, unless there's submissions to the contrary that
11:50:33 17 this is somehow to be kept from [REDACTED], it should
11:50:38 18 certainly be disclosed.
11:50:44 19
11:50:44 20 COMMISSIONER: That's one issue. Perhaps I can have the
11:50:46 21 answer to that.
11:50:47 22
11:50:47 23 MS ARGIROPOULOS: If I can clarify that. I thought I did
11:50:50 24 raise this. The disclosure of this document unredacted as
11:50:54 25 it is will occur. As Mr Holt had informed the Commission
11:51:00 26 previously, that process was going to take some time
11:51:02 27 because of protective measures that needed to be put in
11:51:06 28 place in the meantime. Those measures, I understand, are
11:51:11 29 somewhat advanced but not yet complete. The purpose for
11:51:15 30 which Victoria Police are seeking a suppression order in
11:51:19 31 relation to this document is so that when the document is
11:51:23 32 disclosed to [REDACTED] he can't then publish it or
11:51:30 33 provide it to somebody else. But if I can make it
11:51:36 34 abundantly clear, the application that Victoria Police make
11:51:39 35 in relation to this document would mean it couldn't be
11:51:42 36 published on the website, but there is no intention to hide
11:51:47 37 this document from [REDACTED]. Victoria Police, as we've
11:51:53 38 always said, have agreed that this document needs to be
11:51:57 39 disclosed to [REDACTED] and that will occur once these
11:52:02 40 protective measures are in place that I've referred to, and
11:52:05 41 that was always the basis on which the [REDACTED]
11:52:08 42 disclosure was to - - -
11:52:09 43
11:52:10 44 COMMISSIONER: How much time are we talking about before it
11:52:12 45 will be disclosed?
11:52:14 46
11:52:15 47 MS ARGIROPOULOS: I'm just seeking those instructions,

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11:52:17 1 Commissioner.
11:52:19 2
11:52:19 3 MR WOODS: [REDACTED]'s in custody.
11:52:22 4
5 COMMISSIONER: I know.
6
7 MR WOODS: This was over two months ago.
8
11:52:26 9 COMMISSIONER: Is Mr Doyle here for the DPP? Yes. Do you
11:52:26 10 have any information about this, Mr Doyle?
11:52:28 11
11:52:28 12 MR DOYLE: I have some records of disclosure, Your Honour,
11:52:31 13 I'll have to check them.
11:52:32 14
11:52:33 15 COMMISSIONER: Would you mind. Thank you.
11:52:36 16
11:52:36 17 MS ARGIROPOULOS: I'm instructed that [REDACTED] is not
11:52:38 18 in custody in relation to this matter but certainly - - -
11:52:42 19
11:52:42 20 COMMISSIONER: No, but it would an impact on the term of
11:52:45 21 custody he's serving for the current matter.
11:52:47 22
11:52:47 23 MS ARGIROPOULOS: Victoria Police is certainly committed to
11:52:48 24 ensuring that disclosure occurs as quickly as it can be.
11:52:51 25 There are, of course, other duties that Victoria Police has
11:52:53 26 in relation to persons who would be affected by that
11:52:56 27 disclosure and that's been the subject of communications
11:52:58 28 from Mr Holt and others at the time this first arose.
11:53:03 29
11:53:03 30 COMMISSIONER: I think we should mention the disclosure
11:53:06 31 matter at the end of this round of hearings. So I'd like a
11:53:11 32 report by that stage as to what's happening, thank you.
11:53:15 33
11:53:15 34 MS ARGIROPOULOS: Certainly.
11:53:15 35
11:53:16 36 COMMISSIONER: Mr Doyle, I'd appreciate if by that point
11:53:18 37 you could also assist what's happening with disclosure to
11:53:24 38 [REDACTED] who I now understand is legally represented.
11:53:29 39 That's right, Mr Woods, isn't it? [REDACTED] is now
11:53:30 40 legally represented?
11:53:30 41
11:53:30 42 MR WOODS: Yes, he is.
11:53:31 43
11:53:32 44 COMMISSIONER: You're aware of that, Ms Argiropoulos?
11:53:34 45
11:53:35 46 MS ARGIROPOULOS: I'm sorry, I'm just seeking instructions.
11:53:38 47 I'm not personally across the disclosure process.

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11:53:40 1
11:53:40 2 COMMISSIONER: If you need those details they can be
11:53:42 3 provided by the Commission as to who his legal
11:53:45 4 representatives are now.
11:53:46 5
11:53:46 6 MS ARGIROPOULOS: Yes, thank you. The disclosure process
11:53:51 7 from Victoria Police's perspective involves disclosure to
11:53:56 8 the Office of Public Prosecution who then makes the
11:53:59 9 disclosure to [REDACTED]. But obviously we would be in
11:54:04 10 a position to report to the Commissioner as requested at
11:54:07 11 the end of the hearings in relation to the status of that
11:54:09 12 process.
11:54:09 13
11:54:10 14 COMMISSIONER: I'm sure, because the DPP now knows about
11:54:12 15 this document and this conscience of the duty of disclosure
11:54:17 16 I know, I'm sure they'll be pressuring you also to get that
11:54:23 17 done in as timely a way as is humanly possible.
11:54:29 18
11:54:29 19 MR WOODS: That leaves a decision about what to do with the
11:54:32 20 document in the meantime.
11:54:32 21
11:54:33 22 COMMISSIONER: Yes.
11:54:33 23
11:54:34 24 MR WOODS: Perhaps we might until that's confirmed.
11:54:36 25
11:54:36 26 COMMISSIONER: Yes, I think for the moment it should remain
11:54:39 27 a confidential - - -
11:54:40 28
11:54:40 29 MR WOODS: Those parties understanding the urgency of the
11:54:43 30 situation.
11:54:43 31
11:54:43 32 COMMISSIONER: - - - exhibit for the time being.
11:54:44 33
11:54:44 34 MR WOODS: We didn't go to 83, Commissioner, which was the
11:54:47 35 fax between Ms Gobbo's former employer and [REDACTED]. I just
11:54:53 36 hadn't made a submission on that document.
11:54:55 37
11:54:55 38 COMMISSIONER: Yes.
11:54:56 39
11:54:56 40 MR WOODS: That's a document that witnesses were examined
11:54:59 41 on, or a gentleman that witnesses were examined on in
11:55:04 42 public hearings. We don't understand this is - I'm sorry,
11:55:08 43 I should tell you what the document is first in case it's
11:55:10 44 not in front of you.
11:55:11 45
11:55:12 46 COMMISSIONER: Yes, I've got it.
11:55:13 47

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11:55:13 1 MR WOODS: They're the faxes from 97.
11:55:15 2
11:55:15 3 COMMISSIONER: Yes.
11:55:15 4
11:55:17 5 MR WOODS: We understand it's to do with protection of
11:55:20 6 particular individuals. We don't know whether it's
11:55:22 7 protection of Mr Reid or protection of someone else. In
11:55:26 8 any event, it has been discussed in open hearing, it's a
11:55:29 9 very historical matter and in those circumstances I'd be
11:55:34 10 submitting that it should not have any redactions and
11:55:38 11 should be published in its form, other than the issue with
11:55:42 12 the solicitor because it would be easy, given publicly
11:55:47 13 available evidence, to identify who he is. So that should
11:55:49 14 stay redacted. No suggestion Reid was an informer too I
11:56:02 15 should say.
11:56:11 16
11:56:12 17 COMMISSIONER: Yes. Just in relation to Exhibit 83, yes,
11:56:16 18 anything in response, Ms Argiropoulos?
11:56:20 19
11:56:23 20 MS ARGIROPOULOS: Commissioner, the submission that I make
11:56:25 21 is really what is set out in writing. I can't expand upon
11:56:28 22 that, but it's essentially a submission that's based on the
11:56:33 23 fact that the document clearly identifies Mr Reid as
11:56:36 24 someone who may have assisted police with information and
11:56:39 25 the risks that are associated with a person being
11:56:44 26 identified as such and the fact that there's other
11:56:51 27 information already available really just makes it easy for
11:56:57 28 that person to be identified even if the name is redacted
11:57:01 29 or a pseudonym applied within that context.
11:57:03 30
11:57:05 31 COMMISSIONER: In this instance, because this is already a
11:57:11 32 matter that's been canvassed in open hearings, including
11:57:14 33 the name of Peter Reid, there's nothing in the material
11:57:18 34 that indicates he did become an informer or that he was an
11:57:24 35 informer and I'm not persuaded that it should be redacted
11:57:35 36 and I reject Victoria Police's application in respect of
11:57:39 37 Exhibit 83.
11:57:43 38
11:57:43 39 Then Exhibit 84, you've made your submissions on that
11:57:46 40 one, Mr Woods.
11:57:47 41
11:57:47 42 MR WOODS: Yes, I have, Commissioner.
11:57:49 43
11:57:49 44 COMMISSIONER: We've dealt with that one. The next one -
11:57:53 45 the list of persons, Exhibit 112.
11:58:00 46
11:58:00 47 MR WOODS: That's been dealt with.

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11:58:03 1
 11:58:04 2 COMMISSIONER: I don't think I have dealt with it. I think
 11:58:06 3 I heard the submissions but I didn't deal with it.
 11:58:10 4
 11:58:10 5 MR WOODS: The list of persons?
 11:58:11 6
 11:58:12 7 COMMISSIONER: Yes. The first application by Victoria
 11:58:18 8 Police, supported by Mr Chettle, was that it should remain
 11:58:22 9 a confidential exhibit because it hadn't yet established
 11:58:28 10 its relevant context and that this might affect the weight
 11:58:32 11 to be given to it as an accurate document. I reject that
 11:58:37 12 contention. It was discussed in an open hearing and there
 11:58:47 13 is no reason why, the rules of evidence not applying to
 11:58:53 14 material before the Commission, that it should remain
 11:58:58 15 confidential on that basis.
 11:59:00 16
 11:59:00 17 The next issue concerns whether it should be tendered
 11:59:07 18 as a redacted document and I see some merit in that, in
 11:59:12 19 fact a great deal of merit in that, and I think so much is
 11:59:18 20 conceded by counsel for the Commission. So there will be,
 11:59:27 21 Exhibit 112A will be a confidential exhibit and Exhibit
 11:59:33 22 112B will be the redacted exhibit. It's common ground that
 11:59:38 23 all the names of handlers will have to be redacted,
 11:59:42 24 including those that have not been given pseudonyms. It's
 11:59:49 25 not clear at this stage whether some handlers, other than
 11:59:59 26 those who have been given pseudonyms, will be giving
 12:00:02 27 evidence and whether they will in time be given their own
 12:00:05 28 pseudonyms. So this document may need to be corrected at
 12:00:12 29 some stage or altered at some stage later in the life of
 12:00:18 30 this Commission. But for the time being the first -
 12:00:44 31 [REDACTED] has been given a pseudonym and that pseudonym
 12:00:48 32 can be used. The pseudonyms, of course, for all the
 12:00:53 33 handlers who have been given pseudonyms will be used. Just
 12:01:03 34 going through the list, Ms Argiropoulos, Blackburn has been
 12:01:11 35 highlighted in mine but I don't think it was one of the
 12:01:13 36 ones you mentioned, was it?
 12:01:16 37
 12:01:16 38 MS ARGIROPOULOS: No, Blackburn was not pressed.
 12:01:20 39
 12:01:20 40 COMMISSIONER: The next one is [REDACTED].
 12:01:23 41
 12:01:23 42 MS ARGIROPOULOS: Yes.
 12:01:23 43
 12:01:24 44 COMMISSIONER: Yes. Counsel for the Commission submitted
 12:01:27 45 that the location could be taken out but I am persuaded
 12:01:32 46 that for the time being the better course is simply to
 12:01:34 47 leave the location in but change the name to [REDACTED]. The

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12:01:46 1 next one is [REDACTED] and that similarly will be [REDACTED]. The
 12:01:55 2 next one I have [REDACTED] highlighted but I don't think
 12:02:02 3 [REDACTED] is one.
 12:02:04 4
 12:02:05 5 MS ARGIROPOULOS: The next one is [REDACTED] the first
 12:02:07 6 person who falls into this category of SDU analysts.
 12:02:10 7
 12:02:11 8 COMMISSIONER: Yes. That's next, all right. So [REDACTED]
 12:02:11 9 and there are a number of people in that category,
 12:02:15 10 [REDACTED] I think
 12:02:38 11 they're the analysts. So they will just be identified by
 12:02:39 12 their rank. Their surnames will go and their rank and the
 12:02:45 13 first initial of their first name. The next one was [REDACTED]
 12:02:49 14 [REDACTED]
 12:02:54 15
 12:02:55 16 MS ARGIROPOULOS: He's [REDACTED]
 12:02:58 17
 12:02:58 18 COMMISSIONER: Yes. He will be identified by his relevant
 12:03:01 19 rank at the time and the initial [REDACTED] of his first name
 12:03:05 20 without the surname. Similarly with [REDACTED] which will be
 12:03:10 21 [REDACTED] What will be left in is "and all other CSCU
 12:03:22 22 miscellaneous'. [REDACTED] was a handler so I don't know
 12:03:26 23 whether he's going to be given a pseudonym but if not he
 12:03:31 24 will be identified by his rank and the first initial of his
 12:03:38 25 first name. Then I think the next one is [REDACTED], is that
 12:03:45 26 right?
 12:03:46 27
 12:03:46 28 MS ARGIROPOULOS: Yes, [REDACTED]
 12:03:47 29
 12:03:48 30 COMMISSIONER: [REDACTED] which will become [REDACTED] The
 12:03:59 31 next one [REDACTED] is that right?
 12:04:01 32
 12:04:01 33 MS ARGIROPOULOS: Yes.
 12:04:02 34
 12:04:03 35 COMMISSIONER: That will be the same but become [REDACTED] The
 12:04:09 36 same with [REDACTED] The same with [REDACTED] [REDACTED] we've
 12:04:19 37 dealt with. [REDACTED] will become [REDACTED] and whatever
 12:04:28 38 the initial of the first name is. And [REDACTED] similarly.
 12:04:37 39 And those anonymisations will continue on the remaining
 12:04:43 40 pages. It might be necessary as time goes on in the life
 12:04:47 41 of this Commission to amend that but at least we'll get
 12:04:51 42 some document up that can be referred to in the public
 12:04:54 43 arena as [REDACTED]
 12:04:57 44
 12:04:58 45 MR WOODS: I'd ask if Victoria Police could attend to those
 12:05:00 46 as soon as possible, we'll be able to publish that
 12:05:03 47 document.

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12:05:04 1
12:05:04 2 COMMISSIONER: Yes. By close of business this week.
12:05:09 3
12:05:09 4 MS ARGIROPOULOS: This week?
12:05:09 5
12:05:10 6 COMMISSIONER: Yes.
12:05:10 7
12:05:10 8 MS ARGIROPOULOS: Yes, thank you.
12:05:12 9
12:05:12 10 COMMISSIONER: Then Exhibit 113 I think I've already dealt
12:05:15 11 with. So that resolves everything. There was something
12:05:18 12 that I might be able to deal with in respect of [REDACTED] by
12:05:22 13 making an order that only has very limited people present
12:05:27 14 in the courtroom.
12:05:27 15
12:05:28 16 MR WOODS: That's correct. I support - I'm not even sure
12:05:36 17 I'm allowed to be in the room for that one.
12:05:38 18
12:05:38 19 COMMISSIONER: No, there might be very particular people -
12:05:38 20 are you allowed to be in the room for that?
12:05:41 21
12:05:41 22 MS ARGIROPOULOS: I'm allowed to be in the room. Can I
12:05:43 23 indicate I am allowed to tell everybody what the
12:05:49 24 application is, and it will depend on how it needs to be
12:05:50 25 dealt with, if I need to call evidence in support of it
12:05:56 26 then that would need to be dealt with very limited people
12:05:57 27 in the room.
28
29 COMMISSIONER: I don't know that we need evidence, do we?
30
12:05:58 31 MS ARGIROPOULOS: The person is simply the person who's
12:06:00 32 been referred to so far in this Royal Commission as [REDACTED]
12:06:04 33 [REDACTED] we seek that that person be given a new person number to
12:06:07 34 be used from now on in the Commission.
12:06:09 35
12:06:09 36 COMMISSIONER: Do we use that retrospectively as well or
12:06:14 37 does it just change?
12:06:16 38
12:06:17 39 MS ARGIROPOULOS: No. No, we're content for everything
12:06:19 40 that's passed to remain. That's really the reason why the
12:06:22 41 number is now sought.
12:06:22 42
12:06:22 43 COMMISSIONER: Is it important that it not be
12:06:25 44 retrospectively changed?
12:06:28 45
12:06:28 46 MS ARGIROPOULOS: Yes, that's right.
12:06:29 47

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12:06:29 1 COMMISSIONER: Okay.
12:06:29 2
12:06:30 3 MS ARGIROPOULOS: What we seek is from today on, and it's
12:06:32 4 important because it arises with the next witness, there's
12:06:35 5 just a different person number. I'd ask that that person
12:06:39 6 number and the name of the person be recorded on a document
12:06:42 7 which is not part of Exhibit 81 which is shown to all
12:06:46 8 witnesses.
12:06:47 9
12:06:49 10 COMMISSIONER: I think we'll make it part of Exhibit 81,
12:06:52 11 but we'll call it Exhibit 81 as it is at the moment,
12:06:55 12 Exhibit 81A, and we'll make this Exhibit 81B so that we
12:06:59 13 have all these things together.
12:07:00 14
12:07:01 15 MS ARGIROPOULOS: Yes, just so that it's really one person
12:07:03 16 number and the name.
12:07:04 17
12:07:04 18 COMMISSIONER: Would you write that down and that will
12:07:06 19 become Exhibit 81B. Write that down on a piece of paper.
12:07:20 20
12:07:21 21 MS ARGIROPOULOS: That is just being written down.
12:07:23 22
12:07:23 23 COMMISSIONER: So what we should have is [REDACTED] and
12:07:36 24 brackets the real name is now - - -
12:07:39 25
12:07:40 26 MS ARGIROPOULOS: I believe we're up to [REDACTED]
12:07:41 27
12:07:42 28 COMMISSIONER: [REDACTED] yes.
12:07:42 29
12:07:43 30 MS ARGIROPOULOS: So the piece of paper will just say
12:07:44 31 [REDACTED] equals and then the real name of that person.
12:07:49 32
12:07:50 33 COMMISSIONER: Yes. That becomes 81B and that's a
12:07:58 34 confidential exhibit.
12:08:00 35
12:08:00 36 MS ARGIROPOULOS: Yes. Can I just flag at this stage,
12:08:02 37 without necessarily requiring the Commissioner to do
12:08:05 38 anything about it, a concern that Victoria Police has about
12:08:12 39 what has now become Exhibit 81A in that there's a lot of
12:08:15 40 names on it - - -
12:08:15 41
12:08:15 42 COMMISSIONER: I understand that certain.
12:08:16 43
12:08:17 44 MS ARGIROPOULOS: Yes. And our preference moving forward,
12:08:19 45 particularly as other people will be added to the list,
12:08:22 46 will be for a similar process to be adopted as we've just
12:08:26 47 done.

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12:00:26 1
12:00:26 2 COMMISSIONER: Yes. And when somebody, rather than showing
12:00:27 3 the whole of Exhibit 81, I think it's best if there's just
12:00:30 4 a piece of paper - - -
12:00:34 5
12:00:34 6 MR WOODS: We apparently have a new system of cards.
12:00:37 7
12:00:38 8 COMMISSIONER: A new system of cards so that there'll be
12:00:41 9 single names for the pseudonyms, et cetera.
12:00:44 10
12:00:45 11 MS ARGIROPOULOS: Yes.
12:00:45 12
12:00:45 13 COMMISSIONER: Which can be shown which will work
12:00:47 14 perfectly.
12:00:47 15
12:00:48 16 MS ARGIROPOULOS: Fantastic, yes. We had had discussions
12:00:51 17 with counsel assisting.
12:00:51 18
12:00:52 19 COMMISSIONER: Yes, I think we all felt a little bit of
12:00:54 20 discomfort about that.
12:00:55 21
12:00:56 22 MS ARGIROPOULOS: We all had some discomfort about that and
12:00:56 23 just finally, without wanting to sound overly precious,
12:09:00 24 there's just some concern to ensure that people who have a
12:09:03 25 copy of Exhibit 81 obviously exercise cautions in relation
12:09:06 26 to it, particularly as we move into this era. If other
12:09:10 27 people's names are added to it, there's obviously a great
12:09:13 28 concern about those documents being lost or anything of
12:09:15 29 that nature.
12:09:16 30
12:09:17 31 COMMISSIONER: Yes. So everybody present and any member of
12:09:24 32 the legal teams who has a copy of Exhibit 81, so they
12:09:29 33 should be treated with great reverence and caution and
12:09:40 34 respect. So you should know where all copies of 81 are and
12:09:42 35 that they are kept confidential, that's an obligation of
12:09:44 36 everybody's legal team.
12:09:45 37
12:09:45 38 MS ARGIROPOULOS: Thank you, Commissioner, I appreciate
12:09:47 39 that.
12:09:48 40
12:09:48 41 MR WOODS: They might be handed back to the Commission at
12:09:51 42 the end of the day if a larger list is needed to be used by
12:09:54 43 those at the Bar table. That way they're not on trams and
12:09:59 44 sitting in bags in chambers, et cetera.
12:10:01 45
12:10:01 46 COMMISSIONER: I expect they're probably already around.
12:10:05 47 But if everyone can be confident about that, confident that

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12:10:07 1 they know where any copies of Exhibit 81 are and that they
12:10:11 2 are secured.
12:10:13 3
12:10:13 4 MR WOODS: Everyone's heard what you've said, Commissioner.
12:10:15 5
12:10:16 6 COMMISSIONER: Yes. We're ready to proceed now?
7
8 MR WOODS: Just before we do there are - - -
9
12:10:22 10 COMMISSIONER: We're finished with Mr Mahoney? Thank you,
12:10:24 11 Mr Mahoney, you're free to go.
12:10:26 12
12:10:26 13 MR WOODS: Mr Mahoney I think can at least sit in the body
12:10:27 14 for now. I don't think he's relevant to this part of what
12:10:30 15 I've got to say, and I'll just say this in a general sense.
12:10:33 16 There is some other evidence of Mr Kelly's that I'm not
12:10:37 17 proposing to deal with today, that others need to be on
12:10:40 18 notice of that evidence before it can be dealt with and
12:10:43 19 they're not on notice. So we'll talk to them.
12:10:46 20
12:10:47 21 COMMISSIONER: When will we deal with that, tomorrow?
12:10:55 22
12:10:55 23 MR WOODS: Perhaps. We'll make sure that those parties are
12:10:56 24 on notice. There's an order that's being sought from you
12:10:59 25 which I'm generally content with in the interim. I think
12:11:09 26 there's a legal practitioner that would need to be put on
12:11:12 27 notice of the form - of even the form of the proposed order
12:11:17 28 by Victoria Police because I think they would have a right
12:11:21 29 to determine whether or not they wish to act on behalf of
12:11:23 30 the individual. So I think the proper course is for the
12:11:29 31 Commission to liaise with Victoria Police.
12:11:32 32
12:11:33 33 COMMISSIONER: Sorry, I've just been handed up something.
12:11:35 34 Is this the order that you're seeking, Ms Argiropoulos?
12:11:38 35
12:11:39 36 MS ARGIROPOULOS: That's correct, yes.
12:11:40 37
12:11:40 38 COMMISSIONER: With respect to the second statement?
12:11:42 39
12:11:42 40 MS ARGIROPOULOS: With respect to the confidential further
12:11:48 41 statement.
12:11:48 42
12:11:48 43 COMMISSIONER: Yes, of Mr Kelly. Are you content with that
12:11:52 44 suggestion?
12:11:53 45
12:11:53 46 MR WOODS: So we would provide it to the relevant people's
12:11:57 47 legal representatives, just so Victoria Police are aware of

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12:12:01 1 that. They would be at a bit of a loss agreeing to the
12:12:06 2 order in the absence of the material that sits under the
12:12:07 3 order, but we think that's the proper course because they
12:12:11 4 might want to be heard on how the order operates, or indeed
12:12:13 5 their client might want to be heard on who he wants to
12:12:16 6 represent him.
12:12:16 7
12:12:17 8 COMMISSIONER: Yes. Are you content with that,
12:12:18 9 Ms Argiropoulos? It seems that person # legal
12:12:28 10 representatives should be informed about this?
12:12:30 11
12:12:30 12 MS ARGIROPOULOS: No difficulty with that whatsoever. I'm
12:12:35 13 sorry, I was just somewhat distracted while Mr Woods was on
12:12:39 14 his feet.
12:12:39 15
12:12:39 16 COMMISSIONER: He has that effect on many people.
12:12:45 17
12:12:45 18 MS ARGIROPOULOS: Perhaps him combined with Ms Enbom
12:12:49 19 whispering in my ear, Commissioner. Look, I think in the
12:12:52 20 circumstances it's appropriate that it not be dealt with
12:12:55 21 today. I'm unclear whether it's proposed that the
12:12:59 22 confidential further statement be provided to others at
12:13:02 23 this stage, is that what is - - -
12:13:04 24
12:13:04 25 COMMISSIONER: I think he was kind of leaving that to you
12:13:07 26 to do to deal with.
12:13:08 27
12:13:08 28 MR WOODS: Yes. I think that the list of people at
12:13:10 29 paragraph C would be the appropriate people to receive the
12:13:14 30 statement. I just think it's difficult to give it to
12:13:21 31 Person #.
12:13:24 32
12:13:25 33 COMMISSIONER: His lawyer.
12:13:26 34
12:13:27 35 MR WOODS: His lawyer, without they lawyer understanding
12:13:30 36 there's an order being made that might affect his
12:13:30 37 interests, that's all. I just want to make sure that that
12:13:32 38 person is aware. They might not even be aware of the
12:13:35 39 issues to be dealt with.
12:13:36 40
12:13:36 41 COMMISSIONER: Yes, so some consideration, you'll have to
12:13:39 42 give some consideration to that.
12:13:40 43
12:13:40 44 MS ARGIROPOULOS: Yes.
12:13:40 45
12:13:41 46 COMMISSIONER: I think the first step is notification and
12:13:42 47 what Mr Woods is wanting to do is to let you know that

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12:13:46 1 that's what is proposed and to check that you don't have a
12:13:49 2 problem with that.
12:13:50 3
12:13:51 4 MS ARGIROPOULOS: No. I'm being told I need instructions
12:13:54 5 in relation to that but I understand that this is an issue
12:14:00 6 that may - no, look, I won't take that any further in
12:14:04 7 public. If I could just seek some instructions and perhaps
12:14:07 8 discuss that with Mr Woods. I think that what is
12:14:09 9 foreshadowed sounds appropriate but I just need some
12:14:12 10 instructions.
12:14:13 11
12:14:13 12 COMMISSIONER: We have to adjourn to go into open hearing
12:14:15 13 again, so you'll have a few minutes to do that then.
12:14:18 14 Otherwise I want to know after the lunch hour at least.
12:14:23 15
12:14:23 16 MR WOODS: Just before we do, there are only a couple of
12:14:26 17 claimed redactions in relation to Mr Kelly's statement.
12:14:32 18 They're relatively brief.
12:14:33 19
12:14:34 20 COMMISSIONER: Which one, the first one?
12:14:36 21
12:14:36 22 MR WOODS: Sorry, the statement that would otherwise be
12:14:38 23 public, that's right.
12:14:39 24
12:14:40 25 COMMISSIONER: Thank you.
12:14:40 26
12:14:41 27 MR WOODS: That's the long statement dated 12 June and has
12:14:44 28 70 paragraphs.
12:14:45 29
12:14:45 30 COMMISSIONER: Yes.
12:14:45 31
12:14:46 32 MR WOODS: Now there's a document, a table that was
12:14:48 33 provided by Victoria Police in relation to redactions
12:14:53 34 claimed. The ones that relate to [REDACTED] are acceptable
12:15:01 35 and I think I can deal with those cautiously in open
12:15:06 36 hearing. Then there are others that are claimed that I'll
12:15:12 37 need to - I would submit it should be dealt with prior to
12:15:15 38 Mr Kelly getting into the witness box because we don't yet
12:15:22 39 understand the basis of some of them but I think there's
12:15:26 40 only perhaps four or five.
12:15:30 41
12:15:31 42 COMMISSIONER: Is Mr Mahoney likely to be needed again for
12:15:35 43 this?
12:15:36 44
12:15:36 45 MS ARGIROPOULOS: Potentially. It may be that I can have a
12:15:38 46 discussion with my learned friend about those but if
12:15:40 47 evidence is required Mr Mahoney is here and can be called.

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12:15:43 1 If I can just indicate while we're in closed court, and for
12:15:46 2 the benefit of everybody at the Bar table, the statement of
12:15:51 3 Jason Kelly refers to [REDACTED] Of course we will now
12:15:54 4 refer to him as [REDACTED]
12:15:56 5
12:15:56 6 COMMISSIONER: Yes.
12:15:57 7
12:15:57 8 MS ARGIROPOULOS: To the extent that questions will be
12:15:59 9 asked of this witness, if they're done in a sufficiently
12:16:05 10 general way consistent with the redactions made to this
12:16:08 11 document, then Victoria Police's submission is that that
12:16:13 12 could be done in open hearing.
12:16:14 13
12:16:14 14 COMMISSIONER: Open court, absolutely.
12:16:16 15
12:16:16 16 MS ARGIROPOULOS: However, if anybody wishes to, and I'm
12:16:19 17 not suggesting - they may well appropriately wish to - if
12:16:23 18 any legal representative wishes to descend into further
12:16:26 19 details, including exploring things that are behind those
12:16:34 20 redactions, then that would need to be done in closed
12:16:37 21 hearing. And I should say that everybody at the Bar table
12:16:40 22 has been provided with access to a shaded version so that
12:16:42 23 they can see behind those redactions.
12:16:46 24
12:16:46 25 COMMISSIONER: Okay.
12:16:47 26
12:16:48 27 MS ARGIROPOULOS: And hopefully that will assist.
12:16:49 28
12:16:49 29 COMMISSIONER: Could we just quickly - if we can just work
12:16:50 30 out those redactions now then we only need to adjourn once
12:16:54 31 to go into opening hearing. Are you confident all the
12:16:57 32 redactions are going to be sorted out?
12:16:59 33
12:17:00 34 MR WOODS: No, I'm not. In fact I can already see some
12:17:03 35 that we won't agree on.
12:17:04 36
12:17:05 37 COMMISSIONER: Why don't we deal with the redaction issues
12:17:07 38 now?
12:17:07 39
12:17:08 40 MS ARGIROPOULOS: Certainly. It might be that we ask
12:17:11 41 Mr Mahoney to step back into the witness box while he's
12:17:14 42 here.
12:17:14 43
12:17:14 44 COMMISSIONER: All right, thanks Mr Mahoney. You're still
12:17:18 45 on your oath. What's the first one, Ms Argiropoulos,
12:17:22 46 that's in issue, or whoever wants to lead?
12:17:25 47

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12:17:25 1 MS ARGIROPOULOS: I understand that all of the redactions
12:17:30 2 in relation to [REDACTED] there's no issue about. So the
12:17:34 3 first disputed redaction is at paragraph 25 of the
12:17:35 4 statement. Mr Mahoney, do you have a copy of that
12:17:37 5 statement in front of you?---No, I don't.
12:17:39 6
12:17:39 7 Could I provide you with this shaded version. I'm sorry, I
12:17:51 8 may have just put him on-the-spot a little bit.
12:17:57 9 Mr Mahoney, have you been involved in the redactions to
12:17:59 10 this particular document?---I believe I should be able to
12:18:03 11 assist the Commission. If I can just have a quick read of
12:18:06 12 it.
12:18:25 13
12:18:26 14 Commissioner, I wonder if I could just provide Mr Mahoney
12:18:30 15 with a document which sets out the basis for the redactions
12:18:33 16 which has been prepared by others within his unit. It just
12:18:36 17 might just assist him to get across the material more
12:18:39 18 quickly.
12:18:39 19
12:18:41 20 COMMISSIONER: Okay.
12:18:42 21
12:18:46 22 MS ARGIROPOULOS: Paragraph 25 relates to a date, it names
12:18:51 23 [REDACTED] and then refers to a human source?---That's
12:18:56 24 correct. Clearly from this it indicates that the
12:19:03 25 Australian Crime Commission has human sources that are
12:19:06 26 providing information in regards to [REDACTED]
12:19:11 27 [REDACTED] So it comes back to the issue around
12:19:13 28 people within that group who would be able to provide
12:19:15 29 information about criminal behaviour would be relatively
12:19:18 30 small and to publish that would actually confirm the fact
12:19:22 31 that there were human sources that were reporting to the
12:19:26 32 Australian Crime Commission and it would encourage [REDACTED]
12:19:31 33 [REDACTED] to try and enquire as to whom they might be.
12:19:36 34 They may already have suspicions. This would then go to
12:19:39 35 confirm those suspicions. Whether those suspicions are
12:19:43 36 even right or wrong, they would then form certain views
12:19:46 37 that people were human sources and if they're in custody
12:19:49 38 then they're in danger, and even if they're not in custody
12:19:54 39 they're still in danger.
12:19:57 40
12:19:58 41 Mr Mahoney, if this was something that wanted to be
12:20:01 42 explored could that be done in closed hearing?---I don't
12:20:04 43 see a problem with it being discussed in a closed hearing.
12:20:07 44
12:20:07 45 So the issue concerns publication of that information; is
12:20:11 46 that correct?---Publication and broadcast, yes.
12:20:15 47

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12:20:15 1 MR WOODS: Just if I might, Commissioner, just on that
12:20:17 2 point. The submission in response is that the mere fact of
12:20:23 3 the use of a human source without an identifier and the
12:20:27 4 fact that information was provided by a human source in a
12:20:29 5 particular investigation without identifying who or what
12:20:32 6 the information was is not PII. It's the identity of the
12:20:35 7 person and the information that they've provided.
12:20:42 8
12:20:43 9 COMMISSIONER: Are you wanting me to rule on that general
12:20:45 10 proposition?
12:20:47 11
12:20:47 12 MR WOODS: Well in relation to this - the submission that's
12:20:51 13 made in relation to this paragraph, well, it is a general
12:20:55 14 proposition. I can certainly see that there might be PII
12:21:00 15 issues as between perhaps say [REDACTED] who could
12:21:06 16 identify [REDACTED] because they were the only holders of
12:21:09 17 that particular information and so the name and the
12:21:12 18 information themselves might be inevitable that that was
12:21:15 19 the person and that was the information that was provided.
12:21:17 20 But here we don't have particulars of the identity of the
12:21:25 21 person or any strong identifiers as to the information that
12:21:30 22 was provided. So on that basis the submission is that this
12:21:33 23 isn't PII.
12:21:35 24
12:21:35 25 COMMISSIONER: Yes.
12:21:36 26
12:21:37 27 WITNESS: Commissioner, I'd have to argue strongly against
12:21:39 28 that because this document confirms there was multiple
12:21:42 29 human sources, that they were providing information in
12:21:47 30 regards to [REDACTED] and it just will put
12:21:53 31 them at risk.
12:21:55 32
12:21:56 33 MR WOODS: With respect, Commissioner, I think that was the
12:21:58 34 information that was already provided by the witness and
12:22:01 35 it's difficult having two opponents?---My apologies.
12:22:06 36
12:22:06 37 As I have at the moment.
12:22:08 38
12:22:09 39 COMMISSIONER: Look, the date [REDACTED] - well [REDACTED]
12:22:14 40 can come out.
12:22:32 41
12:22:33 42 MS ARGIROPOULOS: Sorry, Commissioner, I'm wondering if I
12:22:35 43 can respond very briefly to that. The claim is a PII claim
12:22:38 44 but it is also a claim under s.26 of the *Inquiries Act* in
12:22:43 45 relation to restricting publication. This is a part of the
12:22:45 46 evidence which is part of this witness's narrative but it's
12:22:50 47 of very marginal relevance to the Terms of Reference and

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12:22:53 1 in my submission the Commission can very amply do its job
12:22:56 2 without publishing this information and unnecessarily
12:22:58 3 placing an informer at risk. So that's the balancing
12:23:01 4 exercise that the informer privilege requires the
12:23:06 5 Commissioner to undertake.
12:23:08 6
12:23:08 7 COMMISSIONER: Understood. I'm satisfied that carrying out
12:23:12 8 that balancing exercise, take out [REDACTED], take out
12:23:15 9 [REDACTED] and the rest is all
12:23:21 10 right.
12:23:21 11
12:23:21 12 Okay, the next one.
12:23:23 13
12:23:33 14 MS ARGIROPOULOS: The next ones relate to [REDACTED] which
12:23:36 15 is fine. The next disputed redactions commence at p.7 of
12:23:42 16 the statement, the name Alk Hammoud and dates in relation
12:23:50 17 to that person are redacted. Mr Mahoney, could you tell
12:23:54 18 the Commissioner what the basis of those redactions
12:23:58 19 are?---Sorry, which paragraph are you at?
12:24:01 20
12:24:01 21 So it's 36E, p.7 of the statement.
12:24:12 22
12:24:12 23 COMMISSIONER: You really probably will want to deal with
12:24:14 24 it all together, it's all related?---The redaction in
12:24:18 25 paragraph E is based on - - -
12:24:20 26
12:24:20 27 Deal with them all of them together, they're all related,
12:24:23 28 about the same topic?---Because of what's in paragraph F,
12:24:26 29 the fact that Mr Hammoud [REDACTED], it's redacted
12:24:31 30 on that basis, and then gave evidence against Horthy Mokbel
12:24:37 31 and Tony Bayeh. Now certainly some people would know that
12:24:42 32 but not - there'd be a large number of people that may not
12:24:46 33 know that who currently may engage with Mr Hammoud. So the
12:24:51 34 basis of that name redaction is, throughout this section is
12:24:56 35 on that basis, the fact that he was arrested, charged,
12:25:01 36 [REDACTED] against Horthy Mokbel and Tony
12:25:08 37 Bayeh.
12:25:11 38
12:25:11 39 MR WOODS: I don't seek to cross-examine.
12:25:13 40
12:25:14 41 MS ARGIROPOULOS: Can I ask you a question of you,
12:25:16 42 Mr Mahoney. Could a person number be used instead of the
12:25:18 43 name or would that not alleviate the concerns?---A person
12:25:23 44 number would be fine but if you left Horthy Mokbel and Tony
12:25:28 45 Bayeh in there, then it would be clear at least to them and
12:25:32 46 those in their inner circle as to who that person number
12:25:38 47 would be which would not eliminate the risk entirely.

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12:25:42 1
12:25:42 2 Yes, thank you.
12:25:43 3
12:25:43 4 MR WOODS: Commissioner, it's my submission that in
12:25:47 5 circumstances where Mr Mahmood gave evidence, public
12:25:54 6 evidence against Mr Mokbel and Mr Bayeh, this can't
12:25:58 7 possibly support a claim for PII.
12:26:00 8
12:26:01 9 COMMISSIONER: Did he give public evidence?
12:26:03 10
12:26:03 11 MR WOODS: It says so here. We've heard no evidence about
12:26:07 12 there being any suppression order.
12:26:07 13
12:26:07 14 COMMISSIONER: Sorry, where does it say he gave evidence?
12:26:10 15
12:26:10 16 MR WOODS: Paragraph F, the last sentence in paragraph F.
12:26:13 17
12:26:13 18 COMMISSIONER: It doesn't say it was in public.
12:26:16 19
12:26:17 20 MR WOODS: Mr Hammoud ultimately pleaded guilty and gave
12:26:20 21 evidence against Horthy Mokbel and Tony Bayeh. I'm not
12:26:23 22 aware of any suppression order, I'm not aware of any closed
12:26:24 23 court order. The two gentleman obviously know he gave
12:26:27 24 evidence because they were in court. Once that occurs PII
12:26:30 25 disappears into the ether. The person chose to get into
12:26:34 26 the witness box and give evidence and they did so.
12:26:36 27
12:26:36 28 COMMISSIONER: That would seem to be so, Ms Argiropoulos.
12:26:39 29 It was in open court.
12:26:40 30
12:26:41 31 MS ARGIROPOULOS: We don't know if it's in open court,
12:26:43 32 that's not referred to in the statement. My submission
12:26:46 33 would be, and we can call evidence about this if necessary,
12:26:49 34 that the risk is not just in relation to the people you
12:26:51 35 give evidence against. The Commission has received
12:26:54 36 affidavits before which deal with risks that exist to
12:26:58 37 informers generally and - - -
12:27:00 38
12:27:01 39 COMMISSIONER: There's a time when you [REDACTED]
12:27:06 40 [REDACTED] This is a witness who apparently
12:27:09 41 gives evidence in open court so apparently this has all
12:27:09 42 been dealt with openly. So why should it now be suppressed
12:27:13 43 if there's no suppression order?
12:27:15 44
12:27:15 45 MS ARGIROPOULOS: I'll just ask Mr Mahoney a couple of
12:27:17 46 questions in relation to that particular issue since he's
12:27:20 47 here. Mr Mahoney, a person who gives evidence against

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12:27:23 1 others in court, is there any concern in terms of risks to
12:27:28 2 that person or confirming that that person gave evidence in
12:27:32 3 court in a document like this published in this Royal
12:27:35 4 Commission?---If a person gives evidence in court they can
12:27:41 5 still be an informer. If they're informing against people
12:27:45 6 that they associate with or have worked with or they are
12:27:49 7 criminal associates, they can certainly come under the
12:27:51 8 umbrella of an informer. Once a person is branded an
12:27:54 9 informer, or colloquially as a dog, then they get branded
12:27:59 10 with that and the risk is enduring.

12:28:02 11
12:28:03 12 MR WOODS: With respect, these questions aren't of any
12:28:05 13 assistance to you, Commissioner. There is just no
12:28:07 14 indication in this that this man went on to be an informer
12:28:13 15 in relation to other matters. He's a man who chose to give
12:28:16 16 evidence against these two individuals. He got into the
12:28:17 17 witness box, he gave the evidence. The evidence that's
12:28:18 18 being given now is really of no assistance. And if it's
12:28:21 19 the case that it's Victoria Police's position, which it
12:28:24 20 seems to be, that anyone who gives information and gets
12:28:27 21 into the witness box can't be named in this Royal
12:28:30 22 Commission, then we're in even a worse state than we might
12:28:34 23 be otherwise. There's no claim of PII that can be
12:28:37 24 supported by that position.

12:28:39 25
12:28:40 26 MS ARGIROPOULOS: Commissioner, the submission is pressed
12:28:41 27 and it's pressed in relation to a number of different
12:28:43 28 people. This is one example that the Commission needs to
12:28:47 29 rule on now. You've heard the evidence in terms of the
12:28:51 30 basis of the claim. In terms of the Commission's desire to
12:28:56 31 have a narrative which can then be used throughout evidence
12:29:00 32 and in any report, in my submission this person can be
12:29:03 33 given a person number. As Mr Mahoney has said, the names
12:29:11 34 Horthy Mokbel and Tony Bayeh will still need to be redacted
12:29:15 35 so that the identity of that person, that person number
12:29:18 36 can't be linked by other people who may not already know
12:29:21 37 this. Again, implementing those steps, which would
12:29:26 38 preserve and protect the safety of people, does not in any
12:29:31 39 way undermine the ability of this Royal Commission to do
12:29:34 40 its job and the Terms of Reference, which this Commission
12:29:37 41 is being run according to, require steps to be taken to
12:29:40 42 ensure the safety of people whilst carrying out the
12:29:47 43 inquiries that the Commissioner must undertake.

12:29:50 44
12:29:50 45 COMMISSIONER: Yes. I'm not satisfied that this is an
12:29:52 46 issue of public interest immunity or informer privilege and
12:29:58 47 nor am I satisfied that it's appropriate in this case to

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12:30:02 1 make a non-publication order or to redact the statement in
12:30:08 2 that respect because this relates to a person who gave
12:30:15 3 evidence apparently in an open public hearing.
12:30:21 4
12:30:21 5 MR WOODS: Commissioner, the next application, I think it
12:30:25 6 might be quicker if I just mention what our position is.
12:30:28 7 The police have quite rightly highlighted Ms Garde-Wilson's
12:30:33 8 name because of a previous redaction. That previous
12:30:36 9 redaction was given in relation to - - -
12:30:38 10
12:30:39 11 COMMISSIONER: What paragraph are we at now?
12:30:41 12
12:30:42 13 MR WOODS: Sorry, paragraph I, just a couple down from
12:30:43 14 where we were looking at.
12:30:43 15
12:30:43 16 MS ARGIROPOULOS: I concede that was done in error. Those
12:30:46 17 redactions should be removed. There's no basis for her
12:30:48 18 name to be redacted in this context.
12:30:50 19
12:30:51 20 COMMISSIONER: Thank you. Right.
12:30:52 21
12:30:53 22 MS ARGIROPOULOS: The next redaction that is pressed is at
12:30:56 23 paragraph 45 which refers to a source providing
12:31:04 24 information.
12:31:04 25
12:31:04 26 Mr Mahoney, have you got that part of the document in
12:31:08 27 front of you?--Yes, can I just check. It was 37, was
12:31:13 28 there an issue at 37? Was that accepted?
12:31:17 29
12:31:18 30 I'm sorry, 37?--Paragraph 37, the proposed redactions in
12:31:23 31 37?
12:31:24 32
12:31:24 33 I understand that's done in respect of bio data in respect
12:31:28 34 of [REDACTED] so unless Mr Woods tells me otherwise I
12:31:31 35 understand that that is accepted.
12:31:32 36
12:31:33 37 MR WOODS: The second-last line where it starts with
12:31:38 38 [REDACTED] and goes up to [REDACTED] is accepted, but
12:31:44 39 not the rest of it for the reasons that we've just spoken
12:31:47 40 about. What I'm submitting is that the word [REDACTED] down
12:31:53 41 to the [REDACTED] on the second, or third-last and last
12:32:00 42 line would be redacted and that would satisfy the ruling
12:32:02 43 that's been made.
12:32:03 44
12:32:03 45 MS ARGIROPOULOS: And the date I suggest would also - - -
12:32:06 46
12:32:07 47 MR WOODS: I'm happy for the date to be removed.

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12:32:10 1
 12:32:11 2 COMMISSIONER: Everyone's happy there?
 12:32:12 3
 12:32:12 4 MR WOODS: It just becomes 2006, yes.
 12:32:15 5
 12:32:15 6 MS ARGIROPOULOS: Sorry, I think also the reference to
 12:32:18 7 [REDACTED] on that last line would also need to come out on
 12:32:23 8 that basis in terms of bio data concerning [REDACTED]
 12:32:27 9
 12:32:27 10 If you turn now to paragraph 45, Mr Mahoney?---Yes.
 12:32:31 11
 12:32:32 12 Is that redaction sought on the basis that it [REDACTED]
 12:32:38 13 [REDACTED] ---It does. It [REDACTED]
 12:32:45 14 [REDACTED] and one that had the very, very
 12:32:48 15 specific information [REDACTED]
 12:32:52 16 [REDACTED] which would have been an incredibly small number
 12:32:57 17 That would be [REDACTED] I would submit that
 12:33:00 18 [REDACTED] would be very keen to identify [REDACTED]
 12:33:06 19
 12:33:06 20 Even though that information doesn't actually [REDACTED]
 12:33:11 21 [REDACTED], what's your opinion in terms of the risks of
 12:33:15 22 that information remaining?---Well it identifies the fact
 12:33:19 23 that [REDACTED] It might not say [REDACTED]
 12:33:22 24 but for [REDACTED], once [REDACTED], he has a wealth
 12:33:27 25 of other knowledge that he can then call on [REDACTED]
 12:33:30 26 [REDACTED]
 12:33:32 27
 12:33:33 28 Yes, thank you.
 12:33:33 29
 12:33:33 30 COMMISSIONER: Any questions?
 12:33:34 31
 12:33:34 32 MR WOODS: No questions. Perhaps one question. Are you
 12:33:37 33 aware of as to whether the information [REDACTED]
 12:33:41 34 was provided in a brief of evidence against [REDACTED]?---I
 12:33:46 35 believe it wasn't. I believe it was confidential.
 12:33:47 36
 12:33:48 37 All right. You're aware the fact that [REDACTED]
 12:33:52 38 provided information to police [REDACTED] in
 12:33:59 39 [REDACTED] and [REDACTED] has
 12:34:03 40 been written about in a number of newspaper articles over
 12:34:07 41 the years?---I'm not aware of that.
 12:34:08 42
 12:34:09 43 You're not aware of that?---No, I'm not.
 12:34:11 44
 12:34:12 45 I can tell you it is the case. Given it is the case that
 12:34:20 46 [REDACTED]
 12:34:20 47 [REDACTED] is identified as [REDACTED] - -

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12:34:22 1 -
12:34:22 2
12:34:22 3 COMMISSIONER: Just because it's in the paper doesn't mean
12:34:24 4 it's true.
12:34:25 5
12:34:25 6 MR WOODS: That's true. But this reference, with respect,
12:34:28 7 only says that [REDACTED] in relation to
12:34:33 8 [REDACTED] Given all of that public
12:34:37 9 information, if you accept for the purposes of the question
12:34:41 10 that that information is public, you would accept, wouldn't
12:34:43 11 you, that this saying, [REDACTED] does
12:34:48 12 no more than provides the public with information that's
12:34:51 13 already available to them?---It provides confirmation of
12:34:54 14 information that may be speculative. You know, if the
12:35:00 15 newspapers have reported on it, as the Commissioner says,
12:35:04 16 it doesn't necessarily mean it's true. There was a number
12:35:07 17 of people who were reported to be Lawyer X before it became
12:35:11 18 evident. And it just confirms, absolutely confirms without
12:35:17 19 any shadow of a doubt, that [REDACTED]
12:35:21 20 information [REDACTED]
12:35:25 21
12:35:26 22 I don't have any further questions, Commissioner. What I
12:35:28 23 would say is that the simple identification of [REDACTED]
12:35:34 24 [REDACTED], without any further information [REDACTED]
12:35:38 25 [REDACTED], is of no moment given publicly available
12:35:45 26 information. On that basis I say that those words should
12:35:49 27 not be redacted.
12:35:50 28
12:35:50 29 COMMISSIONER: All right. I think it's prudent that those
12:35:53 30 words are redacted so I order that they be removed. The
12:36:00 31 next one.
12:36:00 32
12:36:01 33 MS ARGIROPOULOS: Thank you, Commissioner. The next one is
12:36:03 34 a name which appears on p.10, just above paragraph 49. The
12:36:07 35 name [REDACTED] Is that the name of an officer engaged
12:36:11 36 in covert work?---[REDACTED] was, yes, [REDACTED] was an undercover
12:36:16 37 controller. I believe - I don't believe [REDACTED] ever worked at
12:36:24 38 the Source Development Unit but I know [REDACTED] has human source
12:36:28 39 handling training.
12:36:31 40
12:36:31 41 Thank you. Commissioner, in the context of this statement
12:36:33 42 the identity of that person in my submission is really of
12:36:37 43 little relevance. In those circumstances the submission is
12:36:43 44 that the name should be redacted. If need be a pseudonym
12:36:46 45 could be applied for the purposes of this statement but
12:36:49 46 it's, as I say, really of no context in what the topic is.
12:36:52 47 MR WOODS: I don't accept the other argument but for the

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12:37:08 1 purpose of expedition I accept the relevance.
12:37:09 2
12:37:10 3 MS ARGIROPOULOS: Thank you. The next, and I think the
12:37:11 4 last series of redactions are in paragraphs 51 and 52 and
12:37:15 5 they're redactions that relate to a person called [REDACTED]
12:37:21 6 [REDACTED]-It's the same argument here, that this
12:37:24 7 information identifies that [REDACTED] was prepared to
12:37:31 8 assist police and make a statement [REDACTED]
12:37:34 9 [REDACTED] Now I'm not sure if he actually did make that
12:37:39 10 statement, but just the cooperation in regards to fraud
12:37:44 11 offences by [REDACTED] was put forward to Mr Kelly,
12:37:56 12 who ultimately didn't act on it. But that's neither the
12:37:59 13 point. It's about the issue that this - not redacting it
12:38:04 14 will identify [REDACTED] as a person willing to assist
12:38:08 15 police and therefore put him in danger.
12:38:10 16
12:38:10 17 If I can just ask you to turn over to the top of p.12.
12:38:14 18 It's apparent from that paragraph that Mr Kelly states, "I
12:38:19 19 do not recall whether a statement was ultimately taken from
12:38:21 20 [REDACTED] Is this situation different from the one we've
12:38:28 21 already dealt with Mr Hammoud whereby there's no evidence
12:38:33 22 that it would be known that the targets, [REDACTED]
12:38:37 23 [REDACTED] was prepared to provide assistance
12:38:41 24 or a make statement?---That's exactly correct. The only
12:38:44 25 person that would know [REDACTED] and Mr Kelly and I
12:38:47 26 think it was his solicitor that came forward and assisted
12:38:50 27 with offering information. But it's certainly not known
12:38:54 28 and if it was to become known then he would be at risk.
12:39:00 29
12:39:00 30 Commissioner, that's the basis of the redactions [REDACTED]
12:39:05 31 [REDACTED] It may be a person number could be assigned for
12:39:09 32 him but if that's the case I anticipate what Mr Mahoney
12:39:12 33 would say is that the remaining redactions would need to
12:39:16 34 remain in terms of the names of the targets and the nature
12:39:19 35 of the offending because otherwise that would be bio data
12:39:22 36 that would identify the person. But once again, in my
12:39:26 37 submission, if a person number is applied the Commission
12:39:30 38 could then explore the role of Ms Gobbo, which is the only
12:39:34 39 basis upon which this evidence is relevant to the
12:39:36 40 Commission and there's no need for [REDACTED] identity to
12:39:42 41 be revealed given the risks which would follow in the
12:39:45 42 circumstances.
12:39:47 43
12:39:47 44 COMMISSIONER: Yes.
12:39:48 45
12:39:49 46 MR WOODS: I just had a question that wasn't clear to me if
12:39:52 47 I might ask the witness. Did [REDACTED] provide a

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12:39:56 1 statement?
12:39:58 2
12:39:58 3 COMMISSIONER: No.
12:39:59 4
12:40:00 5 WITNESS: That's not my understanding.
12:40:02 6
12:40:02 7 MR WOODS: You don't understand that he did. This deponent
12:40:05 8 says he doesn't know. Do you have an answer to that?---I
12:40:11 9 have no knowledge of a statement was taken.
12:40:13 10
12:40:13 11 You don't know whether it was, you don't whether it
12:40:16 12 wasn't?---Correct.
12:40:17 13
12:40:17 14 COMMISSIONER: The trouble is that she said - the evidence
12:40:18 15 is that Gobbo said he was prepared to make a statement.
12:40:20 16
12:40:21 17 MR WOODS: And if he did make a statement then we'd be in a
12:40:24 18 different position to if he didn't make a statement. If
12:40:27 19 he's made a statement then we'd like to know the answer to
12:40:30 20 that.
12:40:34 21
12:40:36 22 MS ARGIROPOULOS: The evidence of Mr Kelly is detailed
12:40:38 23 there quite extensively in terms of there's obviously a
12:40:42 24 draft statement and communications with Ms Gobbo about the
12:40:45 25 statement and Mr Kelly's conclusion is that he can't recall
12:40:48 26 whether a statement was ultimately taken.
12:40:50 27
12:40:51 28 MR WOODS: I've just been provided some information which
12:40:53 29 means we don't need to refer to his name.
12:40:56 30
12:40:56 31 COMMISSIONER: What would be best though would be to give
12:40:59 32 another person number, wouldn't it, so that can you tell
12:41:02 33 the narrative?
12:41:03 34
12:41:03 35 MR WOODS: Yes.
12:41:03 36
12:41:04 37 COMMISSIONER: It would be [REDACTED] will
12:41:07 38 become [REDACTED] and all the other redactions should
12:41:13 39 remain. You'd agree, Mr Woods?
12:41:16 40
12:41:17 41 MR WOODS: Yes.
12:41:17 42
12:41:17 43 COMMISSIONER: You don't wish to be heard against that? Is
12:41:19 44 that everything or is there more?
12:41:22 45
12:41:22 46 MR WOODS: There was one in paragraph 66.
12:41:24 47

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12:41:24 1 MS ARGIROPOULOS: There's one last one in paragraph 66
12:41:26 2 which refers to [REDACTED]. I'm not sure what
12:41:29 3 Mr Woods' position is in relation to that.
12:41:32 4
12:41:33 5 MR WOODS: Well, I don't accept - I don't make a submission
12:41:41 6 in support of the claim. It provides a date. It says that
12:41:45 7 there was information provided by [REDACTED], it
12:41:48 8 doesn't say [REDACTED], it doesn't say with
12:41:51 9 specificity what the information was and there's no
12:41:54 10 evidence it could have only come from one particular
12:41:57 11 person. Having said that, I think one of your previous
12:42:01 12 rulings in a similar vein was that it was appropriate to
12:42:04 13 redact.
12:42:05 14
12:42:05 15 COMMISSIONER: Yes, and that would be my ruling again
12:42:07 16 unless you had some new submission.
12:42:09 17
12:42:09 18 MR WOODS: Yes.
12:42:09 19
12:42:10 20 COMMISSIONER: Yes.
12:42:11 21
12:42:12 22 MR WOODS: So those being sorted, again, if Victoria Police
12:42:17 23 can provide a copy of that in that form and we can put it
12:42:21 24 on the web page after the evidence.
12:42:22 25
12:42:23 26 COMMISSIONER: Yes. So can you do that overnight?
12:42:28 27
12:42:28 28 MS ARGIROPOULOS: Those changes could actually be done
12:42:31 29 immediately and I've just ask my instructor if they could
12:42:35 30 even be done over lunch.
12:42:35 31
12:42:36 32 COMMISSIONER: Over lunch would be great.
12:42:37 33
12:42:38 34 MS ARGIROPOULOS: Because I would just prefer the witness
12:42:39 35 to be clear about what he can and can't talk about in open
12:42:42 36 court and if everybody has a copy of that version over
12:42:45 37 lunch - - -
12:42:46 38
12:42:46 39 COMMISSIONER: It can be tendered as A and B, unredacted as
12:42:50 40 exhibit whatever we're up to A, and the redacted as B.
12:42:55 41
12:42:56 42 MS ARGIROPOULOS: Yes, and we could perhaps apply the
12:42:58 43 [REDACTED] number at the same time.
12:43:01 44
12:43:02 45 COMMISSIONER: Exactly. Mr Chettle wants to say something.
12:43:04 46 Can I just check we've finished with all the - - -
12:43:07 47

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12:43:07 1 MR WOODS: We are.
12:43:08 2
12:43:08 3 COMMISSIONER: Have we finished with Mr Mahoney?
12:43:11 4
12:43:11 5 MR WOODS: Yes.
12:43:11 6
12:43:12 7 COMMISSIONER: Thanks Mr Mahoney, I'm glad you didn't go
12:43:14 8 too far away. You're free to go now.
12:43:18 9
12:43:18 10 <(THE WITNESS WITHDREW)
12:43:19 11
12 12
12:43:19 13 COMMISSIONER: Yes Mr Chettle.
12:43:21 14
12:43:21 15 MR CHETTLE: Nothing to do with what's being discussed,
12:43:23 16 Commissioner. While we're still in closed session,
12:43:26 17 something was said during the course of discussion
12:43:28 18 yesterday that causes me to raise this. Dale is still to
12:43:31 19 be cross-examined and he's in the witness box. Is there a
12:43:34 20 prohibition on [REDACTED] name? I understand from
12:43:38 21 something that passed that there might be - - -
12:43:41 22
12:43:41 23 COMMISSIONER: Which name was that, [REDACTED]
12:43:45 24
12:43:45 25 MR CHETTLE: [REDACTED]
12:43:48 26
12:43:49 27 MR WINNEKE: My feeling was that we weren't using his name
12:43:52 28 but I can't recall exactly - - -
12:43:52 29
12:43:52 30 MR CHETTLE: He's not on my Exhibit 81 list.
12:43:56 31
12:43:56 32 MR WINNEKE: He's not, no.
12:43:57 33
12:43:58 34 MR CHETTLE: I am sensitive to not breaching suppression
12:44:02 35 orders.
12:44:02 36
12:44:02 37 MR WINNEKE: I think we better check and see whether there
12:44:04 38 is.
12:44:04 39
12:44:05 40 COMMISSIONER: Get everyone to check because the
12:44:07 41 suppression orders are a nightmare.
12:44:09 42
12:44:10 43 MR WINNEKE: Can I say, Commissioner, Mr Dale did register
12:44:14 44 [REDACTED] as an informer. So that is - there's no issue
12:44:19 45 about that. Indeed, as I understand it, [REDACTED] is
12:44:23 46 bringing proceedings in relation to that. So it oughtn't
12:44:29 47 be revealed that he's an informer. There's no question

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12:44:32 1 about that. So any evidence which concerns that oughtn't
12:44:36 2 be led and wouldn't be led. The only question is whether
12:44:40 3 there is in other respects a suppression order which
12:44:44 4 prevents the use of his name. I don't know that - - -
12:44:45 5
12:44:45 6 COMMISSIONER: It might want to lead evidence of him being
12:44:48 7 an informer but we'll have to give him a pseudonym.
12:44:52 8
12:44:53 9 MR WINNEKE: I don't propose to deal with [REDACTED] I
12:44:56 10 hadn't anticipated that I would.
12:44:58 11
12:44:58 12 MR CHETTLE: Can I say, the only reason I'm being careful,
12:45:02 13 [REDACTED] is relevant for three things. You'll find that
12:45:06 14 his name was mentioned in relation to Dale giving evidence
12:45:08 15 in [REDACTED] trial, you'll find that he was present at the
12:45:12 16 time that [REDACTED] was killed, [REDACTED] and
12:45:15 17 he was a source of Mr Dale's. If any of those things could
12:45:20 18 become relevant I want to make sure that I don't mention
12:45:23 19 - - -
12:45:23 20
12:45:23 21 COMMISSIONER: We're not investigating any murders.
12:45:25 22
12:45:25 23 MR CHETTLE: I understand that. We're investigating -
12:45:28 24 Mr Dale's relationship with Ms Gobbo is what I'm interested
12:45:30 25 in and that reflects on that. It's an excess of caution.
12:45:34 26 I just didn't know if I was going to breach any orders and
12:45:37 27 that's when I raised - - -
12:45:37 28
12:45:37 29 COMMISSIONER: Are you going to be likely to be mentioning
12:45:40 30 him?
12:45:41 31
12:45:41 32 MR CHETTLE: I'm likely to be talking about [REDACTED]
12:45:44 33
12:45:45 34 COMMISSIONER: If you're talking about him as a human
12:45:47 35 source you won't be able to mention his name, or other
12:45:49 36 information or other bio data that could lead to his
12:45:52 37 identity being revealed.
12:45:53 38
12:45:54 39 MR CHETTLE: Yes.
12:45:54 40
12:45:54 41 MR WINNEKE: I would ask that Mr Chettle provide an outline
12:45:57 42 of his cross-examination because I can't at this stage see
12:46:00 43 any relevance to the Terms of Reference to Ms Gobbo's
12:46:07 44 connection to Mr Dale insofar as [REDACTED] is concerned.
12:46:12 45
12:46:12 46 COMMISSIONER: It certainly sounds as though you better
12:46:14 47 have a conversation about that.

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12:46:17 1
12:46:17 2 MR CHETTLE: I will and if I go near it I'll tell
12:46:19 3 Mr Winneke.
12:46:20 4
12:46:20 5 MS ARGIROPOULOS: Sorry to rise once again, Commissioner.
12:46:21 6 On the topic of suppression orders, concerns have just been
12:46:22 7 expressed to me about whether there may in fact be a
12:46:27 8 suppression order in place concerning Mr Hammoud. The
12:46:31 9 basis for the concern is that inquiries have been made on
12:46:34 10 Austlii in relation to Milad Mokbel's decision and that
12:46:37 11 person is not named, it's referred to as XX in the
12:46:41 12 judgment.
12:46:41 13
12:46:42 14 COMMISSIONER: Okay.
12:46:44 15
12:46:44 16 MS ARGIROPOULOS: We'll just seek to make some urgent
12:46:47 17 inquiries over lunch.
12:46:48 18
12:46:48 19 COMMISSIONER: That would obviously have an impact on the
12:46:55 20 ruling I made.
12:46:56 21
12:46:57 22 MS ARGIROPOULOS: Yes, of course. It may be others at the
12:46:58 23 Bar table may have information about this as well but I
24 just wanted to flag it. We'll obviously make urgent
12:47:00 25 inquiries that we can to ensure that - - -
12:47:00 26
12:47:01 27 COMMISSIONER: Even if it's a possibility that might mean
12:47:03 28 that that ruling will have to be revisited. So we don't
12:47:06 29 want to breach it.
12:47:08 30
12:47:08 31 MS ARGIROPOULOS: Yes.
12:47:09 32
12:47:09 33 COMMISSIONER: We perhaps better not put that information
12:47:11 34 up until we're confident that there isn't a suppression
12:47:15 35 order. Urgent inquiries will be made. I think we're ready
12:47:21 36 to go into open court but I also note it's getting very
12:47:25 37 close. Is there any point to starting before one?
12:47:28 38
12:47:28 39 MR WOODS: There's not.
12:47:29 40
12:47:30 41 MR HANNEBERY: There's one matter that's come up in
12:47:31 42 relation to Mr Kelly that I want to speak to Mr Woods
12:47:34 43 about.
12:47:34 44
12:47:35 45 COMMISSIONER: All right. We're going to resume then - we
12:47:43 46 still won't get to Mr Kelly at two, will we?
12:47:48 47

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12:47:48 1 MR WOODS: No, we won't but hopefully soon after. We won't
12:47:49 2 finish him today though. We might just regroup after the
12:47:52 3 application is heard and look at the time and see what can
12:47:54 4 be done usefully with the afternoon.
12:47:56 5
12:47:57 6 COMMISSIONER: All right. There's really no point resuming
12:48:00 7 before two I think so we'll adjourn now until 2 o'clock.
12:48:04 8 Thank you.
12:48:05 9
12:48:05 10 LUNCHEON ADJOURNMENT
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