

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

09:35:42 1 COMMISSIONER: We're in closed hearing again. I think the
09:35:46 2 only changes to the appearances are that Mr Goodwin is
09:35:50 3 appearing for the State of Victoria and we have Ms Martin
09:35:53 4 here for the ACIC. Ms Martin, if you could come forward to
09:35:59 5 a microphone where you can be heard. I understand you have
09:36:03 6 applied for leave to appear in respect of this witness.

09:36:06 7
09:36:06 8 MS MARTIN: That's right, Commissioner.
9

09:36:09 10 COMMISSIONER: And I understand counsel assisting consider
09:36:10 11 that's appropriate. I assume no one else has anything to
09:36:13 12 say to the contrary, so I'll grant you leave to appear in
09:36:17 13 respect of this witness, and I order that order 2 of the
09:36:23 14 order made on 19 November 2019 is varied to include the
09:36:27 15 legal representatives for the Australian Criminal
09:36:33 16 Intelligence Commission. A copy of this order is to be
09:36:35 17 posted on the door of the hearing room.

09:36:39 18
09:36:39 19 Then there was another issue arising out of the
09:36:42 20 non-publication order that you obtained some time ago.

09:36:45 21
09:36:46 22 MS MARTIN: That's right, Commissioner. In respect of that
09:36:48 23 I believe the Commission has been sent a letter from my
09:36:51 24 instructing solicitors and as set out in that letter
09:36:54 25 there's only one particular issue that is pressed but I
09:36:58 26 just had a discussion with counsel assisting and there may
09:37:01 27 be some suggestion that that particular issue may need to
09:37:05 28 be agitated by counsel assisting, so I'm seeking
09:37:08 29 instructions currently as to whether that non-publication
09:37:11 30 order is maintained. Until we receive those instructions
09:37:15 31 if I may ask that that non-publication order is continued -
32 - -

33
09:37:19 34 COMMISSIONER: How much time are we talking about?

09:37:21 35
09:37:21 36 MS MARTIN: - - - in the interim. In order to obtain those
09:37:24 37 instructions?

09:37:25 38
09:37:25 39 COMMISSIONER: Yes.

09:37:26 40
09:37:26 41 MS MARTIN: I would at least expect the day, so perhaps
09:37:29 42 until tomorrow.

43
09:37:29 44 COMMISSIONER: Friday we're doing some directions hearings
09:37:32 45 I think, so is Friday okay? We might do some tomorrow as
09:37:36 46 well.
47

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09:37:36 1 MR WINNEKE: If we can sort it out before then. I'm not
 09:37:39 2 going to touch on that issue today.
 3
 09:37:41 4 COMMISSIONER: No. We'll say until Friday. I'll extend
 09:37:44 5 the order until Friday.
 09:37:45 6
 09:37:46 7 MS MARTIN: Thank you, Commissioner.
 8
 09:37:47 9 COMMISSIONER: We may be doing some directions hearings
 09:37:50 10 tomorrow, so if you've got it sorted out earlier we'll deal
 09:37:56 11 with it tomorrow.
 09:37:56 12
 09:37:58 13 MS MARTIN: Will do. Thank you.
 14
 09:37:58 15 COMMISSIONER: Yes, Mr Winneke.
 09:38:00 16
 09:38:01 17 <STUART BATESON, recalled:
 18
 09:38:06 19 MR WINNEKE: I was asking you some questions last night, we
 09:38:09 20 were dealing with the statement taking process of [REDACTED]
 09:38:14 21 [REDACTED]?-- [REDACTED]?
 22
 09:38:17 23 I'm sorry, [REDACTED] you're quite right. I just want to
 09:38:24 24 move on briefly and I'll come back to that. Just in terms
 09:38:29 25 of the chronology and the sequence of events. It was
 09:38:33 26 reasonably apparent that around the time that you were
 09:38:42 27 taking the statement or the statements which were
 09:38:47 28 ultimately signed, the two statements, firstly in relation
 09:38:49 29 to [REDACTED] and, secondly, in relation to
 09:38:54 30 [REDACTED], which were signed on 13 July 2004, at that stage
 09:39:01 31 clearly Ms Gobbo is acting for and advising
 09:39:08 32 [REDACTED]?--Yes.
 33
 09:39:13 34 As we know, on the basis of that statement which you then
 09:39:20 35 had in your hand - indeed and you charged [REDACTED] and
 09:39:30 36 you charged [REDACTED] with the murders of [REDACTED] and
 09:39:36 37 [REDACTED]?--Oh well I think we actually at that point got a
 09:39:40 38 [REDACTED]
 39
 09:39:41 40 [REDACTED], same - - - ?--Same thing
 09:39:44 41 effectively.
 42
 09:39:45 43 They were charged or allegations that they were responsible
 09:39:47 44 for the murder were laid in the way [REDACTED]
 09:39:50 45 to stand trial?--Yes. I just did want to say though that
 09:39:56 46 it wasn't just on the basis of those statements. That
 09:39:59 47 certainly tipped the scales, but it wasn't just on that

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09:40:01 1 basis.
2
09:40:01 3 You had other evidence?---Yes.
4
09:40:05 5 But that tipped the scale?---Yes.
6
09:40:10 7 In addition to that you were in a position to charge
09:40:14 8 [REDACTED], although you didn't because I gather what you
09:40:19 9 wanted to do was to bring him on board?---I actually don't
09:40:26 10 - I can't remember why that delay was. We did make an
09:40:29 11 approach to him at the [REDACTED]'s store.
12
09:40:32 13 You went and saw him at the [REDACTED]'s?---Yeah.
14
09:40:34 15 We covered this briefly. You didn't tell him that you had
09:40:38 16 a statement but you said, "Look, time's running out. If
09:40:41 17 you want to get on board now's the time to do it"?---Yep.
18
09:40:46 19 Basically what you wanted was for him to give evidence
09:40:50 20 against [REDACTED] and [REDACTED]?---Yes.
21
09:40:58 22 Who you regarded as being the shooter?---I was certain by
09:41:02 23 that point that [REDACTED] was the shooter.
24
09:41:04 25 In both killings?---Yes.
26
09:41:06 27 In fact all three killings?---Yep. And at that point, yes,
09:41:10 28 I was making the approach to [REDACTED], yes, at that point.
29
09:41:14 30 Yes. Now, he vacillated and he certainly wasn't prepared
09:41:20 31 at that stage to get on board, if we can use that
09:41:23 32 expression, so you made the decision, at least you and your
09:41:26 33 crew, and no doubt seniors right up to Assistant
09:41:32 34 Commissioner properly, made the decision to pull the
09:41:34 35 trigger and charge?---Look, my only conversations would
09:41:37 36 have been with Gavan Ryan. What conversations he may -
09:41:41 37 look, I think I outline in my notes there's some meetings
09:41:44 38 that take place. I'm sure it was discussed in those
09:41:47 39 meetings.
40
09:41:48 41 Yeah?---But, yeah, I don't have any memory of it being an
09:41:53 42 instruction from above, so to speak.
43
09:41:55 44 In any event, as we heard yesterday Ms Gobbo's talking
09:41:59 45 about the pressure, the strain that she was under. She
09:42:03 46 diagnosed, perhaps herself, as being under so much pressure
09:42:07 47 that she has a stroke, you understand that?---Yes.

.20/11/19

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BATESON XXN - IN CAMERA

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1
09:42:11 2 She's put into hospital on 24 July 2004?---I'm not sure but
09:42:18 3 I understand she was in hospital at some point.
4
09:42:23 5 The Commission has other evidence about that. But she
09:42:28 6 contacts you on 27 July and tells you, and this is in your
09:42:35 7 statement, that she's in hospital, she's suffered a stroke
09:42:38 8 and she said she would still be acting for [REDACTED] but
09:42:42 9 there was a new solicitor involved and that was [REDACTED]
09:42:49 10 [REDACTED]?---Yes. Correct, yes.
11
09:42:53 12 You obviously then - the day after that indeed you focus on
09:42:59 13 [REDACTED] you go and see him at [REDACTED]'s on the 28th.
09:43:09 14 Then, as you say, your last contact with Ms Gobbo about
09:43:14 15 [REDACTED] at paragraph 62 in your statement, was at about
09:43:21 16 that time, that is 27 July 2004; is that right?---I think
09:43:29 17 the 3rd of August.
18
09:43:30 19 3rd of August?---Yeah.
20
09:43:32 21 Okay. So then the next thing is the [REDACTED]
09:43:36 22 are filed and served on [REDACTED] and [REDACTED] who are both in
09:43:41 23 custody, and [REDACTED] who are in custody at that stage.
09:43:46 24 correct?---I think that happened after the [REDACTED],
09:43:52 25 yes.
26
09:43:53 27 And then [REDACTED] is picked up and charged with the
09:43:59 28 murders of [REDACTED] and [REDACTED]---That happened the same day.
29
09:44:02 30 Same day?---Yep.
31
09:44:05 32 The same day Gobbo starts to act for [REDACTED]---Was it
09:44:15 33 that day? Yes.
34
09:44:18 35 Because when he was interviewed and cautioned he wanted to
09:44:21 36 speak to his solicitor, Mr Valos. He wasn't available and
09:44:24 37 so she speaks - he asked to speak to Ms Gobbo and that
09:44:28 38 occurs?---Yes.
39
09:44:30 40 All right. I don't want to go into that in any great
09:44:36 41 detail, save to say, and I've asked you this before, it was
09:44:39 42 quite apparent, as far as you knew at that stage, that
09:44:41 43 she, Ms Gobbo, had been acting for [REDACTED] and had been
09:44:44 44 intimately involved in that process as we discussed
09:44:47 45 yesterday?---She was involved in that process.
46
09:44:52 47 You say intimately involved is not the correct

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09:44:55 1 description?---Yeah, yeah.
2

09:44:57 3 Okay. Would you accept closely involved in that
09:45:00 4 process?---I think an apt description of it was that she
09:45:03 5 was his legal representative and she advised him through
09:45:07 6 that process.
7

09:45:08 8 And as she and you were aware, not only did she advise him
09:45:13 9 factually, as we established yesterday, she was involved
09:45:17 10 because she gets the statement, she expresses scepticism,
09:45:22 11 she goes and sees him and she makes, she says, amendments
09:45:26 12 to the statement and then the statement is signed
09:45:28 13 thereafter. Do you accept that proposition?---I accept
09:45:31 14 that she says that. She didn't amend the statement. She
09:45:35 15 can't amend the statements. She may well have provided
09:45:39 16 some advice to [REDACTED] in regards to the contents, I
09:45:43 17 don't know. I wasn't privy to those conversations.
18

09:45:51 19 Do you say that was a matter between Gobbo and [REDACTED]
09:45:54 20 [REDACTED]---Correct.
21

09:45:57 22 And Mr Hatt was also in the meeting with, or had a meeting
09:46:04 23 with Ms Gobbo on 10 July leading up to the events which led
09:46:08 24 to the final change of the statement in relation to the
09:46:10 25 death of [REDACTED]---Well not really. The final change
09:46:15 26 came when he was in the witness box. He added a little bit
09:46:23 27 more in the witness box at the committal.
28

09:46:25 29 The fact is Mr Hatt was involved because he took the
09:46:27 30 statements, hard copy statements to see Ms Gobbo in her
09:46:30 31 office on 10 July 2004?---Yes, that sounds like the
09:46:36 32 chronology.
33

09:46:39 34 As you say, the decision was made, rather than going
09:46:43 35 through a committal process there was a [REDACTED]
09:46:46 36 filed. There was going to be [REDACTED]?---That was at
09:46:50 37 that time, yes.
38

09:46:53 39 And so the matter is remitted to the Supreme Court
09:46:56 40 [REDACTED] then there are various hearings and so forth
09:47:01 41 arising following that?---There is.
42

09:47:06 43 Correct?---Yep.
44

09:47:07 45 And then subpoenas are issued by [REDACTED]; is that
09:47:14 46 right?---I don't actually - I mean I'm sure [REDACTED] issued
09:47:18 47 subpoenas. I don't actually remember the subpoenas when

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09:47:22 1 and where and who, but there was a lot of them.
2
09:47:26 3 Right. And there was a hearing before Justice [REDACTED] in
09:47:33 4 the Supreme Court on [REDACTED] 2004. This is
09:47:46 5 RCMP1.0108.0002.0006. At that hearing there was
09:47:58 6 discussion, and indeed you gave evidence can I
09:48:03 7 suggest?---Oh, I don't recall. I've got a note here my
09:48:09 8 notes need to be produced next week and Nigel makes a note,
09:48:13 9 Detective L'Estrange makes a note that further documents
09:48:18 10 and TI material was served on the solicitors.
11
09:48:21 12 According to the transcript at p.13 you're examined, indeed
09:48:26 13 Mr Horgan calls you and subjects you then to
09:48:28 14 cross-examination by Mr Faris, who then asks you questions
09:48:33 15 about various things in relation to the preparation of the
09:48:39 16 brief. At p.14 of the transcript he's asking you about
09:48:49 17 statements made by [REDACTED] and he says, "Are there any
09:48:55 18 other statements made by [REDACTED] signed or unsigned?"
09:49:02 19 You say, "There is none relevant to these charges. None
09:49:05 20 relevant or none full stop? None relevant to these
09:49:09 21 charges", you say. Now at that stage do we understand that
09:49:13 22 there had not been a statement taken in relation to the
09:49:15 23 murder of [REDACTED]?---What date was that, 23 September?
24
09:49:23 25 23 September 2004?---I don't think we'd completed that
09:49:25 26 statement. We may have started it.
27
09:49:27 28 That was started I think you've said somewhere around the
09:49:30 29 25th to the 29th of June of 2004 but it was put aside and
09:49:37 30 subsequently you dealt with [REDACTED] about that when he
09:49:42 31 came on board representing [REDACTED]; is that right?---Yes.
32
09:49:49 33 Then you were asked about other statements. Mr Faris says,
09:49:54 34 "What about other statements that he's made, are you
09:49:56 35 prepared to provide those or do you take some sort of
09:49:58 36 privilege?" You say, "I would be seeking public interest
09:50:03 37 immunity to answer that question", and then you want to get
09:50:06 38 legal advice, so he doesn't press that. He says, "What
09:50:09 39 about any notes, tapes or videos of [REDACTED], that falls
09:50:16 40 into the same category I assume?" You say, "A lot of
09:50:21 41 those" - sorry, did you want to say something?---Yes,
09:50:25 42 sorry, it's not scrolling up.
43
09:50:27 44 Sorry. If we could go to p.15. The top of p.15. You say,
09:50:36 45 "No, well a lot of those you can have. Most of the notes
09:50:39 46 would be contained in members' notes and I'm in the process
09:50:42 47 of editing those members' notes now. So I'd be able to get

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09:50:47 1 you those by the end of next week". That was the process
 09:50:50 2 that was engaged in. Insofar as the notes, you were
 09:50:59 3 editing the notes, your notes, correct?---Yes.
 4
 09:51:06 5 You were seeking the notes of your other investigators who
 09:51:10 6 had been involved in the investigation of murders?---Other
 09:51:13 7 police I think.
 8
 09:51:15 9 Police?---Holistically, yeah.
 09:51:19 10
 09:51:19 11 Other police, police at the scene, other investigators such
 09:51:21 12 as Mr Hatt and Ms Kerley and so forth?---Yes.
 13
 09:51:26 14 And all of those notes were ultimately gathered together
 09:51:28 15 and they were in fact served upon the representatives of
 09:51:31 16 the accused, that being [REDACTED], [REDACTED] and [REDACTED]?---Yes.
 17
 09:51:37 18 Prior to committal?---There was a number of bits of service
 09:51:41 19 of notes over the journey.
 20
 09:51:44 21 Yes?---But I accept that by the committal they'd had the
 09:51:50 22 large majority of them.
 23
 09:51:52 24 Yeah, okay. So the process of argument about public
 09:52:00 25 interest immunity, et cetera, et cetera, was in effect - it
 09:52:03 26 didn't go ahead in front of the Supreme Court because what
 09:52:05 27 happened was there was an argument further down the track,
 09:52:09 28 I think in about December, before Justice Gillard, whereby
 09:52:17 29 a stay was sought for the trial on the basis that there, so
 09:52:21 30 the argument went, should be a committal and that
 09:52:24 31 occurred?---Yes, I remember that.
 32
 09:52:25 33 And Justice Gillard said, yes, there should be a committal
 09:52:29 34 and a committal then occurred?---Correct.
 35
 09:52:34 36 In that hearing you were asked about any other materials
 09:52:37 37 relevant to the investigation of [REDACTED] and - just
 09:52:54 38 excuse me. If we go to p.16. You say, "There's no other
 09:53:03 39 document capable of being admitted into evidence? Well
 09:53:06 40 apart from what you go on to mention in - I think the only
 09:53:12 41 thing would be running sheets, members' notes, those sorts
 09:53:15 42 of things. All right, let's go through the list". That's
 09:53:18 43 the start of the process of trying to get from the police
 09:53:21 44 all of the relevant documents which will enable the defence
 09:53:28 45 to properly test the evidence that the police have,
 09:53:30 46 correct?---I'm not sure if it's the start but certainly
 09:53:33 47 it's - - -

1
09:53:34 2 It's around the start?---Yes.
3

09:53:36 4 Ms Gobbo was there at that stage, no longer representing
09:53:42 5 [REDACTED] but she's now representing [REDACTED]?---On the
09:53:49 6 10th?
7

09:53:50 8 On the 10th. If we go to p.23 of the transcript, let's go
09:53:54 9 down to 23. You've been in the witness box answering
09:53:58 10 questions by Mr Faris. Then we see 23 towards, about
09:54:07 11 halfway, "Are there any questions that you want to ask,
09:54:17 12 Ms Gobbo?", says Justice Teague. And she says, "No, Your
09:54:20 13 Honour". So she doesn't want to ask you any questions.
09:54:24 14 If, for example, can I suggest she was properly and fully
09:54:28 15 pursuing her client's interests she may well have asked you
09:54:31 16 questions about the process by which [REDACTED] statement
09:54:36 17 was taken, because she knew about it, and she may well have
09:54:42 18 wanted to ask you questions about that to expose the
09:54:45 19 process by which the statement was taken, do you accept
09:54:48 20 that?---Oh, look, I can't speak for what Ms Gobbo may or
09:54:54 21 may not think.
22

09:54:55 23 No, you can't but you can answer my questions?---She may
09:54:57 24 well - - -
25

09:54:58 26 A barrister may well have wanted to know about that
09:55:01 27 process?---She may well have been satisfied by what
09:55:03 28 Mr Faris had said before her and asked before her.
29

09:55:06 30 She had knowledge, she had knowledge about the statement
09:55:09 31 taking process because she was intimately involved in it
09:55:13 32 and she certainly didn't ask you any questions about it,
09:55:16 33 correct?---Well, yeah, I don't accept the intimately but I
09:55:20 34 agree with the rest of what you're saying.
35

09:55:22 36 And she desperately did not want it to be known what her
09:55:26 37 involvement is in this process, correct?---She didn't want
09:55:30 38 it to be known, as we later established, that she was
09:55:33 39 acting for [REDACTED] because she was afraid that she was
09:55:37 40 going to be murdered by Mokbel or Williams.
41

09:55:39 42 All right, we know that. We know that. But a barrister
09:55:42 43 who is doing his or her best to represent their client
09:55:45 44 would be wanting to fight tooth and nail to find out the
09:55:49 45 process by which this person, whom quite clearly was
09:55:53 46 involved, is now giving evidence against [REDACTED], would
09:55:56 47 want to know how that process occurred, do you accept that

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09:55:59 1 proposition, that is a proper barrister doing their
 09:56:03 2 job?--Oh, look, in my experience sometimes one barrister
 09:56:07 3 will accept what's said before them by another barrister
 09:56:09 4 and keep going.
 5
 09:56:11 6 Yeah?---But I admit that doesn't happen very often. Most
 09:56:17 7 people seem to like to get up on their feet and make
 09:56:20 8 submissions.
 9
 09:56:20 10 Do you accept that Ms Gobbo was hopelessly conflicted and
 09:56:24 11 not in a position to vindicate the rights or pursue the
 09:56:28 12 rights of her client, [REDACTED]?---No.
 13
 09:56:31 14 You don't accept that?---No, I don't, I think - - -
 09:56:34 15
 16 Okay, righto.
 17
 09:56:34 18 MS ENBOM: Commissioner, I think the witness wanted to
 09:56:36 19 explain his answer.
 20
 09:56:38 21 COMMISSIONER: All right. Give your full answer,
 09:56:39 22 thanks?---I think, you know, as I said yesterday and
 09:56:41 23 previously, the conflict issue, had I turned my mind to it,
 09:56:45 24 and I don't have a memory of doing that, is a confusing one
 09:56:48 25 and when people can act for who and where and when, and
 09:56:53 26 certainly my knowledge about it was limited on that point
 09:56:58 27 and I looked to others to provide the guidance on that, and
 09:57:02 28 certainly, you know, Geoff Horgan and the OPP knew of
 09:57:07 29 Ms Gobbo's involvement in [REDACTED].
 30
 09:57:11 31 MR WINNEKE: Yes?---So if it had have been a real concern I
 09:57:14 32 would have expected that those more experienced people of
 09:57:17 33 the law would have raised it.
 34
 09:57:19 35 Did Mr Horgan know - - - ?---He may well have raised it, by
 09:57:24 36 the way.
 37
 09:57:24 38 He may well have. Did he know though that Ms Gobbo had
 09:57:30 39 been involved in the way in which your notes reveal on the
 09:57:34 40 10th, the 11th, the 12th and the 13th of July in the
 09:57:38 41 process whereby the statement was taken?---He knew that she
 09:57:41 42 saw the statements, yeah, and he knew that she saw and read
 09:57:47 43 the statements and provided advice to [REDACTED].
 44
 09:57:53 45 Did he know about what had occurred, that she expressed
 09:57:57 46 scepticism? Did he know then that you arranged for her to
 09:58:01 47 go and see him, that is [REDACTED] the next day, and then the

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09:58:06 1 statement was then changed again? Did he know those
 09:58:09 2 details?---I'm not sure. I certainly remember that we had
 09:58:13 3 conversations about that but what he actually knew at that
 09:58:17 4 time I just don't have a clear memory of in relation to
 09:58:20 5 that, but he certainly knew that we were talking to
 09:58:23 6 Ms Gobbo. He was speaking to Ms Gobbo himself.
 7
 09:58:25 8 Yes?---So I'm not quite sure what those conversations were.
 09:58:30 9 I certainly know that there was different conversations
 09:58:33 10 along the way about on what he may expect in terms of
 09:58:38 11 sentencing and timelines. When we first spoke about this
 09:58:42 12 with Ms Gobbo there was a meeting with the OPP and I think
 09:58:47 13 I make a note in the chronology about lines of
 09:58:50 14 communication.
 15
 09:58:51 16 Yes?---And, you know, I have a memory of that being the OPP
 09:58:55 17 chipping me saying, "We talk to the lawyers, not
 09:59:00 18 necessarily you". So I know they had conversations
 09:59:03 19 themselves. What those conversations - it well may be that
 09:59:08 20 Mr Horgan raised those issues around conflict with
 09:59:11 21 Ms Gobbo, I don't know.
 22
 09:59:13 23 Yes, yes. I think the Commission has evidence that
 09:59:38 24 Mr Horgan was certainly conscious of the conflict that
 09:59:41 25 Ms Gobbo had but I'm keen to know whether he was aware of
 09:59:45 26 the matters which are set out in your notes on the 10th and
 09:59:52 27 11th of July?---What - sorry - - -
 28
 09:59:59 29 The 10th and 11th of July. They're contained on one page
 10:00:04 30 in your day book?---Yeah, I would have thought so.
 31
 10:00:27 32 You think you would have told him about those
 10:00:32 33 matters?---Yeah, I think we all shared that scepticism.
 34
 10:00:38 35 So you say - - - ?---He's worried about the sentence and
 10:00:42 36 seizure. Yeah, I can't see why that would be discussed.
 37
 10:00:45 38 With Mr Horgan?---With Mr Horgan and others, yeah.
 39
 10:00:54 40 Because ultimately notes were served, your day book notes
 10:01:01 41 were served, and if we can put up the OPP.00 - just excuse
 10:01:20 42 me. If we scroll down there to p.2265 of the depositions,
 10:01:44 43 which I think is around 690 of that document.
 10:01:55 44
 10:01:56 45 MS O'GORMAN: Commissioner, can I ask for this to be put up
 10:01:59 46 on the screen here, please.
 47

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10:02:01 1 COMMISSIONER: Yes, that shouldn't be a problem. We're in
 10:02:03 2 closed hearing, it should go on all the screens. Thank
 10:02:06 3 you.
 4

10:02:14 5 MR WINNEKE: If we keep going to 2265 at the bottom of the
 10:02:27 6 - see the bottom right number is the page of the
 10:02:29 7 depositions, 2265. They're consecutive numbers. These are
 10:02:58 8 - I take it this is your day book; is that right?---Yes.
 9

10:03:03 10 And that's obviously Monday 22 March 2004 and that's the
 10:03:13 11 entry that you make and in that entry there's a reference
 10:03:19 12 to - and obviously there are some names on there,
 10:03:23 13 Commissioner, which I understand my learned friend for the
 10:03:27 14 OPP wishes to see but obviously they're names which we're
 10:03:33 15 not permitted to reveal.
 16

10:03:35 17 COMMISSIONER: Yes, there's a non-publication order in
 10:03:37 18 respect of them.
 19

10:03:39 20 MR WINNEKE: Yes. Then if we go to the next page. So
 10:03:43 21 that's 22 March. If you go to the previous page in your
 10:03:51 22 diary, what do you see on that previous page?---I'll tell
 10:03:59 23 you I've got this running the other way.
 24

10:04:03 25 So 8.30 in the morning?---Yeah, at office.
 26

10:04:09 27 At office. What I might do is ask Mr Skim to do this, to
 10:04:14 28 keep that one there if he can and put this document up
 10:04:20 29 VPL.0005.0058.0208. 0005.0058.0208. There's entries on
 10:04:46 30 that page, and that's the day where you've said that you
 10:04:50 31 had discussions with Ms Gobbo; is that right?---Yes.
 32

10:04:55 33 You speak to Nicola Gobbo, she's the barrister for [REDACTED]
 10:05:05 34 [REDACTED]. You speak to her re [REDACTED] cooperation and that's
 10:05:08 35 a redacted version but underneath the blacks are the name
 10:05:13 36 [REDACTED] "[REDACTED] cooperation. She was at pains to
 10:05:16 37 point out she would not disclose confidential
 10:05:20 38 communications to [REDACTED]', that's [REDACTED], "or anyone
 10:05:24 39 else", correct?---Correct.
 40

10:05:26 41 "Stressed to her the next step would be [REDACTED] compiling a
 10:05:33 42 can-say statement which would enable us to corroborate, if
 10:05:41 43 possible, and put something firm to the OPP. She stated
 10:05:44 44 that she would put this to him and advise me of response.
 10:05:52 45 Appeared to agree this was the appropriate response",
 10:05:57 46 okay?---Yes.
 47

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10:05:58 1 Now that's your notes on that day. That's in effect the
 10:06:04 2 early commencement of the process of [REDACTED] becoming a
 10:06:08 3 witness and assisting the police, correct?---That's my
 10:06:13 4 first contact with his legal representative. We really
 10:06:15 5 started the process when he was arrested.
 6
 10:06:21 7 That page obviously - that page isn't included in any of
 10:06:25 8 the materials which were made available to the accused
 10:06:29 9 people. If we have a look at the depositions it's apparent
 10:06:37 10 that that page has been excluded?---Is it?
 11
 10:06:41 12 Well, let's have a look at 2266. That's the page in the
 10:06:48 13 depositions which commences at 8.30, is that right? Those
 10:06:58 14 matters - if we can go to the previous page. That's 23
 10:07:06 15 March. Let's go to 2265. That's the previous page. Then
 10:07:16 16 we go to 2264. That's 12 March 2004, right?---I'm just
 10:07:34 17 looking back for that page. All right, I've got that page.
 18
 10:07:50 19 Sorry?---I've got that page.
 20
 10:07:53 21 Am I correct about that, that 2264 is 12 March 2004?---Yes.
 22
 10:08:02 23 Then the next page in the depositions, 2265, is 22 March
 10:08:26 24 2004 but in the afternoon?---Correct. Or it seems to be.
 25
 10:08:31 26 Seems to be. And the page in which you make reference to
 10:08:35 27 Nicola Gobbo and that process is not included. Certainly
 10:08:39 28 it appears not to have been included in the
 10:08:41 29 depositions?---Yeah, it does.
 30
 10:08:43 31 Do you accept that?---Can we go to 2266 just in case.
 10:08:47 32
 10:08:48 33 The next entry is 23 March 2003. Can you just confirm that
 10:08:53 34 albeit that says 2003 you were operating on notes which
 10:08:58 35 seem - - - ?---It would have been 2004, yeah.
 36
 10:09:00 37 And the notes that you've got there, clearly that should be
 10:09:03 38 2004?---Yes.
 39
 10:09:04 40 Correct?---Yep.
 41
 10:09:06 42 It appears to be the case, and what I'm basing this on are
 10:09:11 43 depositions which were tendered, or which resulted
 10:09:18 44 following the committal proceeding in which Messrs
 10:09:24 45 [REDACTED], [REDACTED] and [REDACTED] were committed to stand
 10:09:27 46 trial for the murders, right, do you accept that?---I
 10:09:31 47 accept that, yeah.

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1
10:09:33 2 And the process of compiling notes, as you discovered when
10:09:37 3 you made your second statement, involved you going through
10:09:42 4 your notes, making redactions, and then providing the
10:09:46 5 magistrate, the Chief Magistrate Mr Gray?---Yep.
6
10:09:52 7 With copies of redacted and unredacted materials, do you
10:09:56 8 accept that?---Yes.
9
10:09:57 10 It appears to be the case that that page certainly is not
10:10:03 11 in the depositions?---It appears to be, yes.
12
10:10:07 13 Now then if we keep going through the depositions, 2266.
10:10:12 14 Let's go to 2267. That's 24 March 2004. If we keep going
10:10:29 15 to 2272. Perhaps if we go back to 2271, that's 25 March,
10:10:57 16 starting at 4 pm. If we go to the previous page, so 2271.
10:11:18 17 That's 4 pm. Again, if you have a look at your diary
10:11:23 18 entries, on the morning of that day, 25 March 2004, which
10:11:30 19 is VPL.0005.0058.0216. The morning of that day there are
10:11:47 20 references to discussions with Mr Horgan, Vaile Anscombe,
10:11:57 21 Gavan Ryan, Andy Allen. "Discussed lines of
10:12:02 22 communication." That's the note that you're talking
10:12:06 23 about?---Yeah.
24
10:12:09 25 And then if you go down to 4.30 on that page, you spoke to
10:12:15 26 Ms Anscombe, advised her regarding the update with respect
10:12:18 27 to [REDACTED] and said that you may contact Nicola Gobbo for
10:12:24 28 an update, "As I discussed the 'can-say statement' with her
10:12:29 29 on Monday" and that was agreed.
30
10:12:32 31 COMMISSIONER: I think that's 2.30, isn't it, 14:30?
32
10:12:37 33 MR WINNEKE: 14:30, yes. Can I suggest again that that
10:12:40 34 page was not included in materials which were subsequently
10:12:46 35 part of the depositions?---Look, I'm not willing to
10:12:51 36 accept - I haven't looked at the depositions but if you say
10:12:54 37 that I'm happy to accept the proposition.
38
10:12:57 39 All right. Then if we go through to - I want to take you
10:13:08 40 through your day book to 9 July 2004 and if we can go to
10:13:26 41 2288 of the depositions?---9 July?
42
10:13:30 43 9 July. Perhaps before I do that. If we go back to 2275
10:13:51 44 of the depositions, which is an entry of 5 April. 2275.
10:14:07 45 That is a page which is in the depositions and your entry
10:14:13 46 on 5 April contains relevant material with respect to
10:14:20 47 dealings with Ms Gobbo. If you have a look at your diary

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10:14:26 1 on that day, VPL.0005.0058.0232. Next page. You see that
 10:14:38 2 at 14:30 you received a call from Nicola Gobbo regarding [REDACTED]
 10:14:43 3 She stated she'd received a call from him, "Go and see him
 10:14:49 4 tomorrow with his solicitor. Agrees with the process
 10:14:52 5 outlined by you for the can-say statement". That's a
 10:14:58 6 discussion about matters which were relevant to the
 10:15:01 7 process, if you like, of him coming on board, do you accept
 10:15:05 8 that?---Yes. I haven't found it my notes but I accept that
 10:15:10 9 that's what I - - -
 10
 10:15:11 11 You haven't found it in your notes?---No, but I've got it
 10:15:15 12 here on the screen.
 13
 10:15:16 14 What we can see is that on 2275 that entry was provided in
 10:15:23 15 the depositions and it was redacted, so one assumes that
 10:15:27 16 when the magistrate went through the process of comparing
 10:15:32 17 unredacted and redacted photocopies he was able to compare
 10:15:35 18 those two and you no doubt explained to him why those
 10:15:39 19 entries were redacted, because of your concern about
 10:15:42 20 Ms Gobbo?---I'd imagine so, yes.
 21
 10:15:49 22 Then if we go to an entry on 26 May 2004 which is in your
 10:16:04 23 diary, VPL.0005.0058.0155, and at p.2276 of the
 10:16:23 24 depositions. That's the next page after the page that I've
 10:16:26 25 just been dealing with. On that - in your diary there's
 10:16:34 26 some crossed out entries, obviously again with respect to
 10:16:40 27 Ms Gobbo. Albeit what's taken out isn't just the name, as
 10:16:45 28 with previous entries, it's the entire entry. Say, for
 10:16:53 29 example, what that indicates is that you clear with
 10:16:57 30 Swindells, you're at [REDACTED] Prison, wanted to know,
 10:17:01 31 it seems, about the sentence, is that right? 0058.0155.
 32
 10:17:11 33 COMMISSIONER: Bottom sentence?---Yeah, bottom sentence.
 34
 10:17:15 35 MR WINNEKE: You wanted to know bottom sentence, in other
 10:17:19 36 words, what's he looking at, "And said he doesn't tell
 10:17:22 37 Nicola what he is offering". Now obviously we can see on
 10:17:32 38 the page that all of that is taken out?---Yeah.
 39
 10:17:34 40 You say, "Look, that's okay. That was my redaction",
 10:17:40 41 albeit you've said to us previously you only took out the
 10:17:44 42 name, but it appears more has come out than just the name,
 10:17:48 43 correct?---Yeah, I'm not - I was thinking about this last
 10:17:51 44 night because I had a feeling this was coming, the way you
 45 were asking questions yesterday, I was thinking about it
 10:17:56 46 last night and the clear memory I have around this is
 10:18:00 47 sitting in the witness box with Mr Lovitt and him saying,

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10:18:06 1 "For the life of me I can't see why just the name of the
 10:18:10 2 legal practitioner is redacted".
 3
 10:18:13 4 Yeah?---And I remember sitting in the witness box thinking,
 10:18:15 5 "Oh God, that was a mistake", it clearly shows something's
 10:18:18 6 going on.
 7
 10:18:21 8 Yes. When you say that's a mistake, whose mistake?---My
 10:18:23 9 mistake.
 10
 10:18:24 11 Your mistake?---My mistake because clearly some - you know,
 10:18:24 12 I'm sure - I'm surprised they didn't put it together then.
 13
 10:18:26 14 Yes?---So yeah, I have - I only have that clear memory.
 15
 10:18:28 16 But what you say is look, the magistrate saw this and he
 10:18:32 17 approved of the whole lot coming out and that's not my
 10:18:36 18 doing, that's his doing. If anyone's responsible for that,
 10:18:39 19 it's not me, it's the magistrate?---No, I make the claim
 10:18:43 20 and I have to back that claim up.
 21
 10:18:46 22 Yes?---Ultimately the arbitrator is the magistrate and
 10:18:51 23 later the judge.
 24
 10:18:52 25 Yes, all right. That information isn't available to
 10:18:57 26 Mr Lovitt when he's cross-examining you. Then you've got
 10:19:01 27 Nicola - and then say Nicola guesses, "Nicola's guess was
 10:19:08 28 [REDACTED] to [REDACTED] years was the bottom"?---M'hmm.
 29
 10:19:11 30 Now that's out. That's been taken out of your notes and
 10:19:16 31 redacted. Again, you say that was material that was put
 10:19:21 32 before the magistrate and he was the ultimate arbiter of
 10:19:25 33 that issue, correct?---Yeah, I remember there being quite
 10:19:28 34 an argument around redactions in notes.
 35
 10:19:30 36 Yes?---And that going to the magistrate.
 37
 10:19:33 38 The argument was before the magistrate behind closed doors,
 10:19:40 39 it was just you and the magistrate and I think Mr Silbert
 10:19:43 40 was there, Gavin Silbert?---No, no, I accept that. I guess
 10:19:48 41 what I was trying to say is I remember Mr Lovitt and
 10:19:50 42 Mr Heliotis.
 43
 10:19:52 44 Yes, saying, "Well, what's all this about, why are these
 10:19:54 45 blanked out"?---Yep.
 46
 10:19:56 47 All right. We then go on to, and this is the issue that I

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10:20:04 1 want to focus on, on 9 July, which is p.2288. You're at
 10:20:21 2 [REDACTED] Prison regarding obviously [REDACTED]?---Can we
 10:20:27 3 just put the clean copy up?
 4
 10:20:30 5 Yeah, put the clean copy up if you wouldn't mind.
 10:20:49 6 0005.0058.0114. What has been removed is - this is when
 10:21:09 7 you go out to see him at [REDACTED], "Allowed to read the
 10:21:13 8 statement", this is the [REDACTED] statement, "to see if it's
 10:21:17 9 a true/correct account". Then what's crossed out is,
 10:21:25 10 "Won't sign before going to Nicola for approval". And then
 10:21:28 11 the notes we've discussed, "Wanted the last two lines of
 10:21:33 12 paragraph 52 added, nothing deleted". So the last two
 10:21:37 13 lines you say are - when you went out there you say you
 10:21:40 14 showed him the statement and he wanted the last two lines,
 10:21:44 15 which you then put into the statement, added?---Yes, so if
 10:21:48 16 you're looking at the exhibit, the statement with his
 10:21:51 17 signature on it, you'll be able to say the last two lines
 10:21:54 18 of that paragraph is what he added at that point.
 19
 10:21:57 20 That may or may not be the issue because it's further
 10:22:00 21 changed subsequently, that's the point?---Yeah.
 22
 10:22:04 23 You accept that?---But that's at that point it changes.
 24
 10:22:07 25 I understand that. What happens is you go out there, you
 10:22:13 26 show him what you've produced up till that time, 9
 10:22:18 27 July?---M'mm.
 28
 10:22:18 29 He says, "Yeah, but I want the last two lines
 10:22:22 30 added"?---Yep.
 10:22:22 31
 10:22:25 32 "At paragraph 52"?---Yes.
 33
 10:22:28 34 We'll get that up in due course, that statement up, but
 10:22:32 35 ultimately - - - ?---I wasn't sure whether it was lines or
 10:22:36 36 sentence, so.
 37
 10:22:37 38 In any event, that was the state of play as at 9
 10:22:42 39 July?---Yep.
 40
 10:22:44 41 If we then move on, using your diary, if we go to the next
 10:22:51 42 page to 1143 it is, I don't know if we're going backwards
 10:22:58 43 or forwards in this one. Let's move on to the next page.
 10:23:05 44 No, other way. It's going backwards because I think when
 10:23:15 45 you photocopied your notes they were all in reverse order.
 10:23:18 46 In any event, that's the next page of your day book,
 10:23:24 47 correct?---Yes.

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BATESON XXN - IN CAMERA

1
10:23:28 2 Can we have a look at the next page in the depositions,
10:23:43 3 2290. The next page is 12 July, do you see that?---Yep.
4
10:23:59 5 What the court, I suggest, or at least what the depositions
10:24:02 6 reveal is that the next entry in your notes which are
10:24:09 7 provided to the defence is an entry on 12 July 2004?---Yep.
8
10:24:17 9 Do you follow that?---I do follow that.
10
10:24:19 11 If we look at your actual day book, what we see is that the
10:24:23 12 next part of 9 July, the afternoon part obviously deals
10:24:30 13 with the [REDACTED] statement, right? If we go then to
10:24:37 14 the next page, "Rang Geoff Horgan, advised", and I took you
10:24:45 15 to that yesterday, "Arrest. Update regarding [REDACTED] Nicola
10:24:48 16 Gobbo, then there was the notes about Sunday morning". Now
10:24:52 17 that wasn't provided, I suggest?---Yeah well I agree it's
10:24:57 18 not in the depositions. You'll see at the committal there
10:25:04 19 was a further argument about the 28 entries, 28 pages,
10:25:08 20 and I'm not sure what wasn't included.
10:25:08 21
10:25:09 22 Yes. We'll come back to that. But in any event if we go
10:25:13 23 to the next page. 10 July. This is the page that I asked
10:25:16 24 you about. This is where Mark Hatt attends at the office
10:25:21 25 of Nicola Gobbo, she's allowed to read the statements and
10:25:27 26 the evidence appears to be that there was hard copies of
10:25:32 27 the statements and Ms Gobbo has said, as we heard
10:25:35 28 yesterday, that she - you disagree with the proposition,
10:25:37 29 but she made changes to the statements and whether or not
10:25:47 30 that is by way of written entries on the statements or
10:25:50 31 Post-it Notes or what have you, are you able to say?---I've
10:25:56 32 had a look at some of Mark's notes and I think she made
10:25:59 33 some suggestions to Mark perhaps.
34
10:26:02 35 Well Mark's notes, he made notes, and I'll come to that in
10:26:08 36 due course, but when you compiled the brief you didn't
10:26:11 37 provide any of those notes with respect to 10 July. They
10:26:14 38 weren't provided to defence and they certainly don't form
10:26:17 39 part of the depositions. I'll come to that in due course.
10:26:21 40 Do you accept that?---No, I don't.
41
10:26:23 42 You don't accept that. You won't accept anything until you
10:26:26 43 see it; is that right?---No, no, I'm - I don't think it's
10:26:29 44 like that but, you know, I accept you've had a look at the
10:26:34 45 depositions and they may not be in the depositions but I'd
10:26:37 46 like to sort of clarify what we were arguing about on that
10:26:41 47 first day of the committal, the notes that were produced

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10:26:43 1 then, and whether they actually found themselves into the
 10:26:48 2 depositions.
 3
 10:26:50 4 I'll come to this in due course but what Mr Lovitt did
 10:26:54 5 during the course of the committal was to make a point of
 10:26:57 6 tendering all of the notes which he had been provided with,
 10:27:00 7 all of the notes, that which had been provided with
 10:27:04 8 pursuant to subpoenas leading up beforehand, notes which
 10:27:08 9 were put back in - I think there were three pages of notes
 10:27:11 10 which were put in following your private hearing with
 10:27:15 11 Mr Gray and other notes which had been produced. Now what
 10:27:18 12 I suggest to you is that this page, 10 July, doesn't appear
 10:27:21 13 in the depositions anywhere?--I accept they're not in the
 10:27:25 14 depositions because I accept that you've reviewed those.
 15
 10:27:27 16 Yes?---But what I don't accept without some further
 10:27:32 17 exploration is that they didn't - they weren't produced at
 10:27:36 18 all because on that first day of the committal you see
 10:27:39 19 reading the transcript we had another argument and there
 10:27:42 20 was talk about, "Why have you produced these now?", and I
 10:27:45 21 said well I realised what Mr Heliotis wanted to pursue.
 10:27:48 22 There was about thousands of pages of notes that were
 10:27:50 23 produced.
 24
 10:27:51 25 Yes?---And I read where Mr Lovitt produced those and I'm
 10:27:55 26 not sure that he just didn't produce the first folder up,
 10:28:01 27 so I don't know. I mean I'm happy to explore that.
 28
 10:28:04 29 Right?---That's why I'm not willing to accept that account
 10:28:08 30 just yet.
 31
 10:28:08 32 Just yet, righto. 10 July - what I'm suggesting to you is
 10:28:14 33 not in the depositions when it was compiled after all of
 10:28:18 34 the evidence at committal. If we move to the next page -
 10:28:24 35 and the 11th of July. The next page is 12 July at the
 10:28:27 36 office. You rang Geoff Horgan regarding a bail application
 10:28:35 37 and then there is a reference to returning to [REDACTED]
 10:28:43 38 Prison and speaking to [REDACTED] He enters the room.
 10:28:48 39 "Some changes made to the [REDACTED] statement regarding his
 10:28:52 40 belief." Do you accept that?---Yep.
 41
 10:28:54 42 That's the evidence which I took you to yesterday whereby
 10:28:59 43 the statement that had been - he'd added the two
 10:29:06 44 lines?---Yep.
 45
 10:29:07 46 And then goes to Ms Gobbo. You arrange for Ms Gobbo to go
 10:29:14 47 and see him. She goes and sees him on the Sunday and then

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10:29:17 1 there's communication between you and she. You then go out
 10:29:20 2 and then the statement is changed again. Then it's in a
 10:29:27 3 position to be signed?---M'mm.
 4
 10:29:30 5 You think. If we then go to the next page. That's when
 10:29:38 6 you go over to Werribee and you print the statement off.
 10:29:40 7 You then go back to see [REDACTED] "Read the statements,
 10:29:46 8 happy", it seems - I don't know whether that's a question
 10:29:52 9 mark or not - but it seems to be either "happy" or - - -
 10:29:57 10 ?---Yeah, it's "happy".
 11
 10:29:59 12 Happy, yeah. Then Nicola Gobbo, you speak to Nicola Gobbo
 10:30:01 13 regarding the changes to the statement. If we then go to
 10:30:05 14 the next page. There's references - so that's 7.50 in the
 10:30:19 15 morning of 12 July. If we can come back. Just go back in
 10:30:25 16 the depositions. Previous page to that. That's the next
 10:30:33 17 page then which finds its way into the depositions. So
 10:30:37 18 what I'm suggesting to you is that those, what I regard and
 10:30:44 19 I suggest are important notes about the changing of the
 10:30:47 20 statements and Ms Gobbo's involvement in it are kept out of
 10:30:53 21 the depositions and they're not provided to the defence, do
 10:30:56 22 you follow what I'm saying?---I follow what you're saying,
 10:30:58 23 yes.
 24
 10:31:03 25 If you examine the committal transcripts it becomes
 10:31:09 26 reasonably apparent that the people who are questioning you
 10:31:16 27 are not aware of what occurs between that entry on the 9th
 10:31:20 28 and the next entry on 12 July 2004, do you accept
 10:31:29 29 that?---No, I'm not sure that I can accept that at this
 10:31:32 30 point.
 31
 10:31:32 32 All right. Well then what I'll do then is take you to the
 10:31:35 33 transcript. You're cross-examined initially by I think
 10:31:45 34 Mr Heliotis; is that right?---Yes.
 35
 10:31:48 36 If we go back to the commencement of that - the OPP.0040
 10:32:04 37 transcript. Perhaps if we can go to this document, just
 10:32:21 38 keep that one there, but if we go to this document,
 10:32:26 39 VPL.0100.0025.2695. That document which is going to be put
 10:32:59 40 up in due course is the argument which occurred about the
 10:33:02 41 notes on day one of the committal which you've been talking
 10:33:07 42 and which you've had a look at in recent times, is that
 10:33:10 43 right, when we finally get it?---Okay.
 44
 10:33:13 45 And there's discussion about it at p.6 of the transcript.
 10:33:21 46 Mr Horgan says, "I've said all I can say about it to assist
 10:33:25 47 the court. The other matters that my learned friend, that

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10:33:30 1 is his note refers to, is something called 'unedited police
10:33:34 2 notes' and as I understand it they relate to police
10:33:38 3 officers visiting [REDACTED] in prison. I say nothing about
4 that. I understand the claim for public interest immunity
10:33:41 5 will be made on behalf of the Chief Commissioner. I say
10:33:44 6 nothing about it". So in effect Mr Horgan was saying,
10:33:46 7 "It's not a matter for me, for the prosecution, that's a
10:33:49 8 matter for the Chief Commissioner, who is represented by
10:33:51 9 Mr Silbert, to argue"?--Yes.

10 10
10:33:57 11 And that's your recollection?--Yes.
12

10:34:03 13 Then if we get to p.9 of the transcript. Just before we
10:34:03 14 do. If we go to the top page, the first page of that
10:34:04 15 transcript. Can we do that? It says there that Mr Lovitt
10:34:10 16 was appearing with Ms Gobbo. Now do you recall that to be
10:34:14 17 the case or not?--No, I don't. I don't recall her being
10:34:19 18 there. I think I say that in my supplementary statement.
10:34:24 19 But I think there's, as we go down further, that she might
10:34:29 20 actually say something.

21
10:34:30 22 Yes, she does, she says that - there was an issue about
10:34:33 23 whether or not Ms Gobbo was going to be involved in
10:34:36 24 argument about a subpoena, is that your recollection or
10:34:38 25 not?--I really don't remember. I actually don't remember
10:34:44 26 her being there. It surprised me to see her name on it.

27
10:34:53 28 The Commission has evidence to suggest that Ms Gobbo in
10:34:57 29 fact was involved in providing preparation work on behalf
10:35:04 30 of [REDACTED] and briefed by Solicitor 2. Were you aware
10:35:11 31 of that?--I don't think I was.

32
10:35:14 33 No?--No.
34

10:35:15 35 And she in fact rendered a fee, charged Solicitor 2 for
10:35:20 36 preparing in effect the committal proceeding for
10:35:25 37 Mr Heliotis, who was acting for [REDACTED]. You say you're
10:35:29 38 not aware of that?--No, I was surprised to see her name on
10:35:32 39 this transcript. I don't remember her being there.

40
10:35:35 41 Well I mean if she's also working behind the scenes on
10:35:38 42 behalf of [REDACTED], that would be somewhat
10:35:41 43 extraordinary, wouldn't it?--You know, I think - - -

44
10:35:46 45 Having been involved in [REDACTED] who's giving evidence against -
10:35:50 46 - - ?--Extraordinary - - -
47

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10:35:51 1 A?---It was ordinary in those days.
2
10:35:58 3 Ordinary, was it?---All ordinary. They were all - just one
10:35:59 4 showed up after another and they were the same thing.
10:36:02 5 There was Sean Grant, Nicola Gobbo, Con Heliotis, Theo
10:36:07 6 Magazis, these were the small cadre of lawyers that seemed
10:36:14 7 to be, you know, Lawyer 2, they seemed to be the core
10:36:15 8 group, so I think ordinary would be a better word than
10:36:19 9 extraordinary.
10
10:36:20 11 You say ordinary. Which other proceedings do you say they
10:36:22 12 all turned up and represented?---No, they all turned up -
10:36:24 13 you know, if you brought someone in, who would come in?
10:36:27 14 Theo Magazis. You brought someone in. Nicola Gobbo. Or
15 who would they advise? Con Heliotis.
16
10:36:31 17 If you charged [REDACTED] Theo Magazis would turn up. If you
10:36:33 18 charged [REDACTED] [REDACTED] - - - ?---Theo
10:36:35 19 Magazis would show up.
20
10:36:37 21 Theo Magazis ultimately got out of this proceeding because
10:36:40 22 he found himself conflicted, didn't he?---I don't know
10:36:44 23 about that.
24
10:36:44 25 [REDACTED]
10:36:48 26 [REDACTED]
10:36:51 27 [REDACTED]
10:36:53 28 [REDACTED]
29
10:36:53 30 [REDACTED]
10:36:56 31 [REDACTED]
32
10:36:58 33 [REDACTED]
10:37:01 34 [REDACTED]
35
10:37:02 36 [REDACTED]
10:37:04 37 [REDACTED]
10:37:07 38 [REDACTED]
10:37:10 39 [REDACTED]
10:37:14 40 [REDACTED]
41
10:37:16 42 Mr Bateson, Solicitor 2 was the instructing solicitor to
10:37:22 43 Mr Heliotis in the trial of Williams for the murder of
10:37:25 44 Marshall. Because it at that stage that she was called in
10:37:31 45 to the trial involving [REDACTED] who was charged with
10:37:37 46 killing [REDACTED] do you recall that?---No, I don't.
10:37:43 47

10:37:43 1 In any event I'll put it to you Mr Magazis was not involved
10:37:46 2 as a lawyer in this proceeding?---I have a clear memory of
10:37:49 3 him in there because of that Supreme Court issue. I may be
10:37:53 4 wrong, but it must have, you know, at some point
10:37:53 5
10:37:53 6 You may be wrong?---Maybe. Maybe. I've been wrong before.
7
10:37:56 8 You're giving evidence on oath in a Royal Commission, do
10:37:59 9 you want to be a bit careful about the evidence that you
10:38:03 10 give?---I will be and I certainly am trying to do my best,
10:38:06 11 but I'm just - this is talking about 14 years ago.
12
10:38:08 13 I understand that?---I have a clear memory of that because
10:38:11 14 we believed he had done just that.
15
10:38:16 16 If we go to p.9 of the transcript you'll see that
10:38:19 17 Mr Heliotis is indicating that a lot of material had been
10:38:23 18 provided, "We're given to understand all of it. We now
10:38:26 19 know that isn't all of it and we want, we've asked the DPP
10:38:31 20 or the OPP to provide the balance of it. One of the
10:38:33 21 matters that has arisen is we've been provided with a lot
10:38:37 22 of notes, police notes in relation to the interviewing by
10:38:39 23 police of [REDACTED] where much of it has been blacked out"?---Yep.
24
10:38:44 25 Then if we go down to 17 we can see at p.17 Mr Horgan is
10:38:50 26 talking about the notes which have been provided in large
10:38:53 27 part, do you see that? "Some extra notes were provided
10:38:58 28 yesterday, but they're only extra notes, they have parts
10:39:02 29 blacked out. As to the notes that have already been
10:39:05 30 provided, as we understand it, no issue has been taken by
10:39:08 31 our learned friends about those parts that have been
10:39:10 32 blacked out, but they do take issue with the things so it
10:39:14 33 seems today. As I said Mr Silbert has been briefed by the
10:39:18 34 Chief Commissioner in relation to those issues, and he'll
10:39:21 35 take instructions and address those issues", do you see
10:39:25 36 that?---Yeah, I think that's the notes that I'm referring
10:39:27 37 to and whether they found their way into the depositions.
38
10:39:30 39 Then if we go on to p.40 of that transcript you can see
10:39:35 40 Mr Silbert is talking about a number of things. "We were
10:39:39 41 here until half past one going through the diary and day
10:39:44 42 book notes. A number of diary and day book notes have been
10:39:48 43 supplied, as Your Honour is aware, in edited form. My
10:39:49 44 friends wanted to query some of the editing. Mr Bateson is
10:39:53 45 downstairs. Actually, there are pages that are actually in
10:39:55 46 contention at the moment. The way we've resolved it is to
10:39:59 47 have them excerpted and have Your Honour look at the edited

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10:40:03 1 form against the unedited form so that Your Honour can
 10:40:07 2 satisfy yourself that they don't bear any relevance of
 10:40:09 3 don't advance the defence position in any material effect.
 10:40:11 4 The blanket objection is that they relate to other matters,
 10:40:17 5 not to these matters, but Your Honour will be in a position
 10:40:21 6 to verify that". Then at p.48, "Mr Bateson is now back in
 10:40:28 7 court. The mechanics of this exercise are a little
 10:40:31 8 difficult. He's not had an opportunity to photocopy the
 10:40:36 9 original unedited copies. If Your Honour has the unedited
 10:40:39 10 copies photocopied, together with the edited copies, you
 10:40:39 11 can flick through and do the exercise yourself in chambers
 10:40:41 12 after", right? That occurred when you were there?---Yes.
 13
 10:40:47 14 And so what you then did was to take the edited copies of
 10:40:51 15 the notes that you had provided up until that point in
 10:40:57 16 time, and then provide photocopies of the relevant pages
 10:41:02 17 commensurate with those edited copies to provide to the
 10:41:05 18 magistrate?---Not exactly. We did do that but we're
 10:41:08 19 talking about extra notes, these were the extra notes that
 10:41:12 20 were supplied on the first day of the committal.
 21
 10:41:15 22 Yes?---You'll see in this transcript there's a reference to
 10:41:19 23 Mr Gray "adopting the same procedure as last week" at an in
 10:41:22 24 camera hearing.
 25
 10:41:23 26 Right?---So although, you know, I don't have a clear memory
 10:41:28 27 of this, I think what we served was some paginated notes,
 10:41:32 28 and you'll see reference to them referring to the page
 10:41:35 29 numbers that I've put on the photocopies.
 30
 10:41:36 31 Yes?---We supplied those in the lead-up to the committal.
 32
 10:41:40 33 Yes?---And then we supplied some extra notes on that
 10:41:43 34 morning and it's those notes which I'm not sure found their
 10:41:46 35 way into the depositions.
 36
 10:41:49 37 I can suggest they do. Perhaps if we can go back to the
 10:41:53 38 depositions. If you have a look at that page there, 12
 10:42:15 39 July?---Yes.
 40
 10:42:16 41 You'll see the number 7 in the top corner?---Yes.
 42
 10:42:22 43 If you go down to the bottom?---There's a number
 10:42:31 44 underneath.
 45
 10:42:32 46 You'll see that there are numbers at the bottom which
 10:42:35 47 appear to be numbers - - - ?---Yep.

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1
 10:42:38 2 Are you talking about those number pages at the bottom or
 10:42:41 3 the pages at the top?---Yeah, I think what we tried to do
 10:42:44 4 when we served, because there was thousands of pages that
 10:42:46 5 we served - - -
 6
 10:42:47 7 There weren't thousands, there were hundreds of pages, but
 10:42:50 8 in any event - - - ?---I think he's referring to at one
 10:42:54 9 stage p.1782 when he cross-examines me, so.
 10:42:58 10
 10:42:58 11 Do you say they were only - were they deposition pages or
 10:43:02 12 hand-up brief pages or note pages?---I'd put or we'd put
 10:43:06 13 that as a team on the additional, not - forming part of the
 10:43:12 14 hand-up brief, we served a lot of documents.
 15
 10:43:14 16 Right?---And we used that page numbering system for that
 10:43:16 17 document. You'll see in this transcript Mr Lovitt I think
 10:43:19 18 is referring to p.1782.
 19
 10:43:21 20 Yes?---He also talks about having hundreds of pages of
 10:43:24 21 police notes and I said I think - I would have thought more
 10:43:27 22 than that and my memory was that there was.
 23
 10:43:32 24 Right?---What I'm saying here is on the morning of that
 10:43:35 25 committal there was production of further notes.
 26
 10:43:40 27 Yes?---And those notes went through the same process with
 10:43:44 28 Mr Gray.
 29
 10:43:45 30 What do you say the numbers at the top are? Because if you
 10:43:48 31 have a look at the number on the top right corner you'll
 10:43:51 32 see 7, that's on 12 July. If you then go back to the
 10:43:55 33 previous page in your diary you see the number 8 there. So
 10:43:59 34 that appears to be consecutive. Do you know what those
 10:44:02 35 ones are?---What about the ones underneath? I would have
 10:44:07 36 thought the ones underneath - I don't know how the 7 and 8
 10:44:10 37 got in. It doesn't - I don't know why there's two numbers
 10:44:13 38 there. I just can't recall how that would have happened.
 10:44:17 39 See there's more significant numbering under the 2289.
 40
 10:44:20 41 Is that right? Have you looked at these, have you?---I can
 10:44:24 42 just see underneath that there's another number underneath
 10:44:29 43 there that is not a single digit number.
 44
 10:44:32 45 Right?---So, you know, I remember thinking well this will
 10:44:36 46 be helpful for everyone if we page number these things,
 10:44:40 47 these additional documents that we served not forming part

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10:44:44 1 of the hand-up brief.
2
10:44:46 3 Righto?---But I don't know why there's an 8 and a more
10:44:50 4 significant number down there, I don't.
5
10:44:52 6 You don't know what that means, all right, okay?---I don't
10:44:55 7 know how that happened.
8
10:44:56 9 In any event, if we keep going on p.48 of the transcript.
10:45:01 10 What appears to be the case is that - if we go back to the
10:45:09 11 transcript, 48?---This is what I'm talking about, there are
10:45:17 12 28 entries to be reviewed. So we're not talking about
10:45:20 13 hundreds of pages of police notes at this point, we're
10:45:23 14 talking about the additional notes that we served that
10:45:25 15 morning.
16
10:45:25 17 Okay. And so do you say that in those additional notes
10:45:31 18 there were additional diary entries which you
10:45:36 19 produced?---Yes, yes.
20
10:45:41 21 What were those pages, what were they of?---I think if we
10:45:45 22 go back up to the top they're talking about the
10:45:48 23 conversations with [REDACTED].
24
10:45:51 25 Yes?---Look, I don't have a clear memory of it but just
10:45:55 26 re-reading this transcript it appears like there's
10:46:00 27 conversations around that. When we go on and we see when
10:46:04 28 Mr Lovitt cross-examines me about these notes.
29
10:46:07 30 Yes?---He makes a point, because Mr Gray put some back in,
10:46:12 31 right.
32
10:46:13 33 Yes?---And I think he makes the point about, "Why did you
10:46:17 34 redact that?" And I replied, "Well look, in hindsight I
10:46:21 35 perhaps shouldn't have", and perhaps understanding the way
10:46:25 36 Mr Heliotis opened, or whatever he said on the first day, I
10:46:29 37 actually brought these to the magistrate's attention.
38
10:46:32 39 Right. So after that process, as far as you were concerned
10:46:34 40 all of the relevant diaries had been provided and had been
10:46:38 41 provided to both the magistrate in redacted form and
10:46:43 42 unredacted form?---Oh look, you know, I thought we had,
10:46:46 43 absolutely. You know, I looked at the gaps when you
10:46:50 44 brought me to it, and there was a gap of a few days, and I
10:46:55 45 looked through those notes just quickly.
46
10:46:58 47 Yes?---And I see there's nothing that even now I would

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10:47:00 1 consider relevant to the charges faced by those, so.
2
10:47:07 3 But what isn't there is those entries which occur, those
10:47:09 4 events which occur on the 10th and the 11th and the 12th
10:47:14 5 and the 13th of July which concern Ms Gobbo's involvement,
10:47:17 6 and I'm suggesting to you that they weren't provided to the
10:47:22 7 defence and they weren't provided to the magistrate?---They
10:47:25 8 could have been in part of that parcel I think.
9
10:47:28 10 You know full well that there was never any
10:47:30 11 cross-examination of you about a lawyer who looked at the
10:47:36 12 statement, expressed scepticism and then went and saw
10:47:42 13 [REDACTED] all that process never finds its way into the
10:47:47 14 committal proceeding and never finds its way into the
10:47:50 15 trial?---Yeah, and I think I said last time that's why,
10:47:53 16 this is one of the reasons why I believe Mr Heliotis knew
10:47:57 17 who it was.
18
10:47:57 19 What you said last time was that he knew that Gobbo had
10:48:01 20 appeared for [REDACTED] at [REDACTED]?---I think he - yeah, maybe I did
10:48:05 21 say that.
22
10:48:06 23 That's what you said?---But - - -
24
10:48:08 25 That may well be the case. Clearly Mr Lovitt didn't know
10:48:12 26 that because he's saying to the magistrate, "I can see who
10:48:18 27 the prosecutor was, I can see who the judge was, but what's
10:48:21 28 the issue with respect to the defence barrister"?---Yeah.
10:48:24 29 I always thought Mr Heliotis did know.
30
10:48:26 31 He may or may not have, but the point is the person who's
10:48:30 32 representing [REDACTED] doesn't know?---Yeah, and I guess
10:48:33 33 that's an important fact. But I'd like to see what was
10:48:36 34 produced here in that morning, those additional 28 entries.
35
10:48:42 36 One would assume that what you would do is provide exactly
10:48:48 37 what you provided to the defence, that is edited copies and
10:48:52 38 unedited copies, so the defence would know what's relevant
10:48:55 39 and what has been redacted, that's the reasonable thing to
10:48:58 40 do, isn't it?---Yeah, I agree.
41
10:49:03 42 That's the practice you adopted?---Yes.
43
10:49:05 44 So the defence would be entitled to look at the notes and
10:49:06 45 say, "Righto, well look, there's relevant material but it's
10:49:08 46 redacted". Is that the way in which you did it?---Yep.
47

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10:49:12 1 And do you make a distinction between material which is
 10:49:16 2 redacted because it's irrelevant and material which is
 10:49:19 3 redacted because it's subject to a claim of public interest
 10:49:24 4 immunity?---Look, what I can say about that is that, you
 10:49:29 5 know, I didn't provide 365 days of notes.
 6
 10:49:32 7 No?---And redact everything that was not relevant.
 8
 10:49:36 9 No, you provided the relevant entries, relevant pages and
 10:49:40 10 you redacted out that which was either irrelevant on that
 10:49:43 11 page or - - - ?---Claimed PII.
 12
 10:49:47 13 - - - was the subject of PII; is that correct?---Yes.
 14
 10:49:49 15 If that's the case, and we go through the depositions and
 10:49:52 16 we don't see those diary entries that I've taken you to,
 10:49:56 17 it's quite clear that you don't provide those entries to
 10:49:59 18 the magistrate?---Yeah, I'm just not willing to accept that
 10:50:02 19 until we look at the 28 entries there of the morning,
 10:50:05 20 because I have a - you know, due to me re-reading the
 10:50:07 21 transcript - and I think if you go to what Mr Lovitt
 10:50:11 22 cross-examines me about, the ones that have been allowed
 10:50:14 23 back in.
 24
 10:50:14 25 Yes?---It gives some hints about what they are.
 26
 10:50:17 27 All right. Let's have a look then. You're firstly
 10:50:23 28 cross-examined by Mr Heliotis and at p.773 of the
 10:50:30 29 transcript - so you might need to go back to the OPP entry.
 10:50:39 30 There's a point to this because what I'm suggesting is that
 10:50:43 31 you've maintained, "Look, I told everything, I told the
 10:50:51 32 magistrate what was going on, Mr Horgan knew about this.
 10:50:54 33 Nothing was kept and we were open handed about this". What
 10:50:59 34 I'm suggesting to you is it seems to be the case that you
 10:51:03 35 weren't and that you kept to yourself information,
 10:51:06 36 important information about Ms Gobbo. Do you follow what
 10:51:09 37 I'm putting to you, just so you're clear?---No, I certainly
 10:51:14 38 understand what you're putting to me, I'm not - - -
 10:51:15 39
 10:51:16 40 And further to that, what I'm suggesting is you didn't give
 10:51:18 41 the magistrate an opportunity to look at all of the
 10:51:21 42 material and form a view based on all of the material as to
 10:51:26 43 whether or not the claim for public interest immunity,
 10:51:27 44 based on her safety, should be made. Do you follow what
 10:51:30 45 I'm saying?---I follow what you're saying, yes. I'm just
 10:51:34 46 not willing to accept it.
 47

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10:51:35 1 No, and I understand that?---You know, you will see that
10:51:36 2 some of the notes around conversations with Nicola Gobbo
10:51:39 3 were in the depositions, so they would have been in that
10:51:42 4 first folder of hundreds or thousands of notes that we
10:51:44 5 provided.
6
10:51:45 7 Yes?---And some obviously were missing.
8
10:51:49 9 Well you see - - - ?---I'm just not sure they were in those
10:51:58 10 28 additional entries.
11
10:52:00 12 What I'm suggesting to you is they weren't. And further to
10:52:01 13 that - I mean Nicola Gobbo was aware of the issues. We
10:52:03 14 looked at that yesterday and she's effectively saying,
10:52:05 15 "Look, my involvement was significant, and if I was a
10:52:06 16 barrister I'd want to know these things and I'd want to
10:52:09 17 find these things out because it's a significant matter".
10:52:12 18 Do you follow what I'm saying?---Yeah, and even the
10:52:15 19 magistrate was alive to that issue when he talked about the
10:52:17 20 balancing act that he had to undertake around the claims
10:52:21 21 that we made around PII.
22
10:52:23 23 It's important. I mean on one view it has a significant
10:52:26 24 bearing on the events which occur subsequently because you
10:52:29 25 say, "I'm concerned to protect her". Now I suggest to you
10:52:33 26 on one view had everyone known that Gobbo was doing no more
10:52:38 27 than advising her client to the best of her ability, which
10:52:41 28 is what you say she was doing with respect to [REDACTED]
10:52:44 29 [REDACTED]?---Yep.
30
10:52:44 31 And I mean we've had this discussion about whether if it
10:52:49 32 was me or someone else, you'd say, "Bad luck, if you've got
10:52:54 33 yourself into a relationship with [REDACTED] that's your
10:52:56 34 problem, that's your look out", do you follow what I'm
10:53:00 35 saying?---No, sorry.
36
10:53:01 37 You say you're concerned about your position and
10:53:04 38 [REDACTED] not finding out that you were involved?---Oh,
10:53:07 39 okay. So I would say to any other barrister, "Bad luck?" .
40
10:53:12 41 Yes?---"I don't care if you're killed."
42
10:53:16 43 No, your position is as a barrister?---Oh, sorry, I'm a
44 barrister.
45
10:53:18 46 You can explain it to [REDACTED], as had been done
10:53:22 47 previously, because she'd been the subject of a threat when

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10:53:25 1 she appeared for Lewis Moran, do you follow that?---Yeah,
 10:53:30 2 I'm struggling to get your point. I might have missed the
 10:53:34 3 first bit you just said. I'm not trying to be avoiding.
 4
 10:53:38 5 Perhaps I'm not making myself clear. But a barrister's job
 10:53:41 6 is to represent their client to the best of their ability.
 10:53:44 7 Now you say she's representing [REDACTED] and advising him
 10:53:55 8 to the best of her ability bearing in mind the evidence
 10:53:58 9 which is available against him and she gets him a good
 10:54:00 10 result in the end?---She does, yeah.
 11
 10:54:04 12 It may well be - - - ?---I shouldn't say that because she's
 10:54:07 13 not representing him when he gets the result but I get the
 10:54:11 14 point.
 15
 10:54:11 16 The point is this: whether or not Ms Gobbo should be
 10:54:15 17 protected, her role should be protected, requires the court
 10:54:21 18 to look at all of the material and form a view about
 10:54:24 19 whether that conduct should be made known to the parties to
 10:54:30 20 ensure a fair trial, even if it may result in a risk to her
 10:54:36 21 life?---Yeah, and look I'd like to think I really tried to
 10:54:39 22 do that. There was a couple of pages that were missing
 10:54:44 23 initially, I would have thought I'd liked to have produced
 10:54:48 24 them in that bundle of 28. But, you know, from what you
 10:54:51 25 have been talking about, you know, what we do know is that,
 10:54:58 26 you know, we weren't keeping Ms Gobbo's involvement a
 10:55:01 27 secret from the magistrate.
 28
 10:55:04 29 I'm suggesting the significant involvement on 10 and 11
 10:55:09 30 July you did. Now you say, "Well look, I'm not certain
 10:55:15 31 about that, I'd like to know what I provided to the
 10:55:18 32 magistrate", right?---But I think when we go back, I think
 10:55:21 33 there was one that you had crossed out which pretty much
 10:55:25 34 spelt it out, didn't it? But yeah, anyway, what I would
 35 say is - - -
 36
 10:55:27 37 Yes, there was an entry which suggested that she had an
 10:55:30 38 involvement representing [REDACTED], do you follow?---There was a
 10:55:33 39 couple.
 40
 10:55:34 41 That's what you're saying. There were a couple and Mr Gray
 10:55:37 42 was able to see that. The point I'm making is the very
 10:55:41 43 significant issue about whether or not [REDACTED] went to the murder
 10:55:43 44 site knowing that there would be a murder or not, that was
 10:55:46 45 something that Gobbo had an involvement in and that was a
 10:55:49 46 very significant issue both with respect to [REDACTED] and
 10:55:53 47 to the ultimate trial proceeding?---That I don't know was a

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10:55:56 1 new thing. He also said that in the 464B.
2
10:56:00 3 Yes?---He only realised on the morning that it was going to
10:56:04 4 be a murder. So he was actually cross-examined about that
10:56:07 5 issue.
6
10:56:07 7 Yeah?---So, yeah, I think the defence were alive to the
10:56:12 8 issue itself.
9
10:56:14 10 And what they weren't alive to was the fact that he had
10:56:17 11 said something to you on the 9th, he was then satisfied
10:56:22 12 with it, having added the two lines or the two sentences.
10:56:25 13 Gobbo becomes involved. She expresses her scepticism. She
10:56:29 14 either says, "That's ridiculous", depending on the view you
10:56:32 15 take. You say you shared that scepticism. Then the
10:56:36 16 statement's changed in the way in which you've described.
10:56:39 17 That's a significant issue with respect to his credibility
10:56:41 18 because the Crown's able to say, go to trial and say, "This
10:56:47 19 fellow knew that there was a murder, he is so honest he
10:56:51 20 turns up knowing. He's told you all this, you should
10:56:52 21 accept him as a witness of truth"?---Yeah. He's
10:56:54 22 cross-examined on that issue.
23
10:56:55 24 He may well be but not with the benefit of that
10:56:58 25 information?---May well not be.
26
10:56:59 27 All right. You were asked questions about the notes by
10:57:09 28 Mr Heliotis. Then Mr Lovitt asks you questions about the
10:57:16 29 process when he commences to cross-examine you, right? If
10:57:26 30 we go to p.823. Let's go to p.802. At the bottom of the
10:58:09 31 page, "All right, you as it were supervised the provision
10:58:17 32 of the various police notes. There's vast numbers of
10:58:21 33 different police but the main body" - - - ?---Sorry, what
10:58:24 34 line are you looking at?
35
10:58:26 36 About 20, line 20?---Line 20.
37
10:58:30 38 "Vast numbers of different police, but the main body of
10:58:35 39 notes comes from you. Heaps of others, Hatt, Swindells and
10:58:38 40 lots of police with lesser roles but those notes have been
10:58:38 41 provided as a result perhaps of subpoenas, requests. Well
10:58:42 42 we didn't have an 8A", et cetera. "What I'll do now, Your
10:58:50 43 Honour, is indicate that I call for all of those notes that
10:58:54 44 have been provided, including the amended passage to those
10:58:58 45 three dates that Your Honour indicated on day one of this
10:59:01 46 committal and I'll tender them as a block. I don't believe
47 we'll get them in the right chronological order this time

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10:59:02 1 but, in relation to this witness's notes, because it's very
 10:59:05 2 confusing", and there was confusion because of the date
 10:59:09 3 order in which they were photocopied and the fact you'd
 10:59:11 4 done it in reverse order and so forth, do you accept
 10:59:13 5 that?---Yeah, there was a lot of confusion, yep, not just
 10:59:18 6 necessarily about the front to back but - - -
 7
 10:59:21 8 His Honour then says at the bottom of 803 - they're then
 10:59:26 9 tendered as exhibit number 33, "And when that's collated
 10:59:32 10 and put together, all the police notes outside of the
 10:59:35 11 hand-up brief". What's in the document which I'm going to
 10:59:38 12 tender, and which we've been going through, are all of the
 10:59:41 13 notes which were produced and I suggest to you that those
 10:59:47 14 are the notes which then go through and are provided to the
 10:59:51 15 parties both in terms of this committal and subsequently.
 10:59:56 16 Do you accept or can you say differently, those notes then
 11:00:00 17 form the basis of the materials which are available to
 11:00:03 18 defence in the trial?---I accept that they'd be in the
 11:00:09 19 depositions, yeah. I think there's further subpoenas that
 11:00:11 20 arrive before the trial.
 21
 11:00:15 22 But not with respect to police notes?---I think there was.
 23
 11:00:18 24 Do you say you produced more notes?---I think so, yeah.
 25
 11:00:21 26 You did, did you?---Yeah. It was happening all the time to
 11:00:25 27 be honest. Yeah.
 28
 11:00:27 29 Righto?---Just go back, if we can go to what Mr Lovitt said
 11:00:33 30 earlier on p.803. "So the dates Your Honour indicated you
 11:00:40 31 have been provided include the amended passages to those
 11:00:46 32 three dates Your Honour indicated on day one of this
 11:00:48 33 committal and I'll tender them as a block". So there's a
 11:00:49 34 couple of things I think we need to check. Did those three
 11:00:52 35 dates, which he questions me about later, end up in the
 11:00:56 36 depositions, and did he only include those of the 28
 11:01:00 37 entries that were examined by the magistrate that day?
 38
 11:01:03 39 Yes. Can I suggest to you what seems to be patently clear
 11:01:08 40 is all of the notes which have been provided, and it's been
 11:01:11 41 a real process to get them, they've all been provided and
 11:01:15 42 they've all been tendered by Mr Lovitt because he says it
 11:01:19 43 would be of benefit to all those who then subsequently
 11:01:23 44 appear in the trial?---I just don't think I can concede
 11:01:26 45 that when I read that.
 46
 11:01:27 47 If we go to p.804, "It will result in, I'm afraid, the

11:01:32 1 brief being, the depositions being approximately twice as
11:01:34 2 long, as least the documents, because I've got two folders.
11:01:39 3 Ultimately everybody, if there's a trial everyone who's in
4 the trial I think will be obliged that they've got those
11:01:42 5 notes and they can readily refer to them. The reason will
11:01:45 6 become obvious if they haven't already. I want to take you
11:01:50 7 to 1768 of the pagination". They're the notes you're
11:01:54 8 talking about at the bottom of the page, right?---Yeah. So
11:01:57 9 that's my or our pagination, so that's why I say, you know,
11:01:59 10 there's a significant amount of notes that were produced.

11 11
11:02:07 12 Then if we go through to the cross-examination about it.
11:02:11 13 Firstly, if we go to p.823. At the bottom of p.823 he's
11:02:24 14 asking you about the statement process and this figures
11:02:27 15 quite significantly during the course of the proceeding.
11:02:33 16 Indeed, at the top of that page there's the discussion that
11:02:37 17 you've talked about in your second statement I think and
11:02:41 18 he's asking you about that entry on I think the plea before
11:02:48 19 Judge [REDACTED] Do you see that at the top of the
11:02:51 20 page?---Yes.

21 21
11:02:53 22 Judge [REDACTED], that's at [REDACTED]. "See, I don't really
11:02:58 23 know, I wasn't involved in that process but I believe it
11:03:02 24 was just for security issues". Then he says - or you say
11:03:06 25 that. "And hasn't he made a statement on 13 June?"
11:03:18 26 Mr Lovitt is wrong about that because it was 13 July.
11:03:21 27 "Unsigned at that stage according to your notes?" And you
11:03:25 28 say, "No, did he?" So there's a mistaken view about that.
11:03:29 29 Then he asks you about drafts of statements, do you see
11:03:32 30 that?---Yes.

31 31
11:03:33 32 Page 824. "Are there any drafts in existence anywhere,
33 including on the computer, of any statement that he made
11:03:41 34 that was later on, was altered in some way prior to the
11:03:43 35 signing of it on 13 July?" You say, "The only draft is, or
11:03:47 36 the only difference that we've recorded is the address that
11:03:51 37 we've deleted out of the statements". The reality is there
11:03:57 38 were drafts or there was a draft certainly of the two
11:04:01 39 statements which were shown to Gobbo on 10 July 2004,
11:04:11 40 that's correct, isn't it?---There was a statement shown to
11:04:17 41 her, yes.

42 42
11:04:17 43 And it was a draft statement that was then changed?---Yeah,
11:04:21 44 I guess you could put it that way. I think when I was
11:04:26 45 answering that question what I meant is that we only
11:04:28 46 retained - there was always a work in progress. We're not
11:04:31 47 retaining drafts along the way is what I'm referring to.

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11:04:35 1 If I didn't make that clear that's certainly what I meant.
2
11:04:39 3 That's what you meant, is it? But the reality is it's not
11:04:44 4 what Mr Lovitt meant and you knew that, didn't you?---Not
11:04:49 5 really. I thought I was being quite frank there.
6
11:04:53 7 Come on, Mr Bateson, the reality is he's asking you if
11:05:00 8 there were any drafts? Ms Enbom said are there any drafts
11:05:07 9 in existence anywhere. Okay. You would say, "look, I
11:05:09 10 answered that truthfully because there are no drafts in
11:05:12 11 existence", is that what you say?---That's certainly my
11:05:16 12 memory of it and I'm thankful for that being pointed out.
11:05:19 13 But that's certainly what I was referring to.
14
11:05:21 15 Is it the situation at that stage you had destroyed the
11:05:23 16 draft that had been shown to Ms Gobbo and perhaps changed
11:05:27 17 by Ms Gobbo?---Yes, that's my understanding.
18
11:05:29 19 It had been destroyed?---That's my understanding.
20
11:05:32 21 Why would it have been destroyed?---I think the most
11:05:36 22 important thing is you don't want anything that's not the
11:05:39 23 final exhibit floating about, one for security reasons,
11:05:44 24 and, two, because I never believed it was evidence until he
11:05:47 25 was willing to sign it.
26
11:05:50 27 But, you know, and I know you ultimately in your
11:05:55 28 supplementary statement, you rely upon some comments made
11:05:58 29 by the judge down the track about that which I would to you
11:06:02 30 are pretty ill-thought out comments, I might say, but
11:06:07 31 that's what you rely upon, is it?---It provides an example
11:06:13 32 of perhaps different thinking than what I'm being asked
11:06:15 33 about now.
34
11:06:15 35 The reality is if you get a statement from a person who is
11:06:18 36 a significant Crown witness in a murder proceeding who
11:06:21 37 chops and changes and has one view in which he's saying, "I
11:06:25 38 didn't think there was going to be a murder", then he says,
11:06:30 39 "I think there was going to be a murder", that's pretty
11:06:33 40 significant, isn't it?---Yeah, I mean - - -
41
11:06:36 42 Do you agree it's significant or not? I mean you want to
11:06:39 43 ramble but do you agree it's significant or not?---Well I
11:06:42 44 think what I'd say about that is that, you know, and I've
11:06:49 45 spelt this out in my supplementary statement, until we get
11:06:52 46 to the closure part of the statement it's really, you know,
11:06:54 47 it's a work in progress. But after that stage if he makes

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11:06:58 1 alterations we note it.
2
11:07:00 3 But a draft was prepared with this fellow, this witness,
11:07:05 4 who you're going to be calling in due course to give
11:07:08 5 evidence against people on their trial for murder?---M'mm.
6
11:07:13 7 Who is telling you on one view untruths?---I don't know
11:07:20 8 what the question is, sorry.
9
11:07:25 10 It's in the draft statement. We've been through this
11:07:27 11 ad nauseam. He's offering you versions of the statement
11:07:31 12 with views about whether or not there's going to be a
11:07:34 13 murder?---Yep.
14
11:07:34 15 He changes it?---Yep.
16
11:07:36 17 Et cetera. The process with Gobbo, that is significant, I
11:07:38 18 suggest to you. Do you say that's not significant?---Not
11:07:41 19 really. What I do say is that we note those changes.
20
11:07:46 21 Where do you note it?---In my notes.
22
11:07:48 23 Does anyone get the notes, that's the point I'm trying to
11:07:52 24 make?---Well if they do get the notes they will see that,
11:07:55 25 and I think I'm cross-examined on it about at the trial as
11:07:59 26 well, about the changes.
27
11:07:59 28 Did you tell anyone about the draft that you destroyed? Is
11:08:04 29 that noted anywhere?---Well Mr Horgan would have known
11:08:09 30 about it.
31
11:08:10 32 What, you told Mr Horgan that you had a statement which was
11:08:12 33 changed, or Gobbo suggested changes to it, and you told
11:08:16 34 Mr Horgan about that, is that what you're saying?---Yeah,
11:08:20 35 yeah, we kept him informed along the process.
36
11:08:23 37 Listen to the question because this is important. Do you
11:08:25 38 say that you told Mr Horgan that you had a
11:08:29 39 statement?---Let's go through my chronology.
40
11:08:30 41 That was marked by Ms Gobbo?---No, no.
42
11:08:33 43 And then destroyed by you?---No, that's not fair. That's
11:08:36 44 not what I meant or said.
45
11:08:38 46 That's the question I asked you?---Okay. So what he knows,
11:08:41 47 and what the Director knew, is that Ms Gobbo had reviewed

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11:08:44 1 the statement.
2
11:08:46 3 Right?---And I believe they were quite clear that there was
11:08:50 4 changes in his statement. I would argue that Ms Gobbo may
11:08:56 5 well have provided advice but the changes were made by the
11:09:01 6 witness.
7
11:09:02 8 Did you tell Mr Horgan that you had a draft which had been
11:09:06 9 shown to Ms Gobbo and Ms Gobbo had expressed scepticism
11:09:10 10 about that draft, the draft was then changed with respect
11:09:14 11 to the witness's belief about whether or not there was
11:09:17 12 going to be a murder take place, did you tell him
11:09:22 13 that?---Let's just have a look at where we're meeting here.
11:09:30 14 You see there's some updates here, "Update Geoff Horgan OPP
11:09:38 15 re [REDACTED] visit on 9 July".
16
11:09:42 17 Yes?---8 July we're meeting with him re the plea. You
11:09:44 18 know, so he's having a conversation with Ms Gobbo as well.
19
11:09:46 20 Do you want to keep going? Do you say that there's a note
11:09:52 21 of you telling Mr Horgan that you had a draft which you'd
11:09:53 22 shown to Ms Gobbo and that draft had been destroyed?---Well
11:09:56 23 look, what I would say is there was no secret that Ms Gobbo
11:10:00 24 had read the statements. We'd certainly discussed that
11:10:08 25 with the Director and the OPP. I may not have told them
11:10:12 26 that I destroyed it but certainly when I'm getting asked
11:10:16 27 questions in the witness box here I think it's clear that
11:10:20 28 the final product is the only product.
29
11:10:23 30 That seems to be - that may well be the case but what you
11:10:28 31 don't do, I suggest to you, is tell the full truth. I'm
11:10:32 32 suggesting you don't tell the full truth about what had
11:10:36 33 occurred with respect to this statement?---I don't
11:10:42 34 understand where you're getting that from really.
35
11:10:46 36 "Are there any drafts in existence, anywhere, including on
11:10:49 37 the computer, of any statements that he made that later on
11:10:54 38 resulted in some way prior to the signing of it on 13
11:10:57 39 July?" You say, "The only draft is or the only difference
11:11:00 40 that we have recorded is the addresses that we deleted out
11:11:04 41 of the statements". You go on and talk about "the only
11:11:09 42 difference" but there's more to it than that?---At what
11:11:16 43 point?
44
11:11:19 45 Look, it is more - I suggest to you it is more than "the
11:11:23 46 only difference that we have recorded is the addresses that
11:11:26 47 we have deleted out of the statements". Now I suggest to

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11:11:29 1 you that is not the whole truth?---I was certainly
 11:11:35 2 interpreting what is there now. As I read that address, I
 11:11:39 3 think there was some addresses that we didn't want in the
 11:11:41 4 public domain of other people that may have been involved,
 11:11:44 5 so we got those out of the draft.
 6
 11:11:48 7 Yeah. So you say you're telling the whole truth?---Yeah.
 11:11:53 8 "Is there any in existence anywhere, including on the
 11:11:55 9 computer or any statement he made later?" There wasn't, so
 11:11:59 10 I feel like that is the truth.
 11
 11:12:02 12 "What I want to suggest to you, and I'm not saying this by
 11:12:05 13 way of comment, but you can see that the vice in that
 11:12:07 14 procedure is until we get the police notes and what we can
 11:12:11 15 glean from the police notes, we're finally able to say, for
 11:12:13 16 example, that a paragraph was negotiated out apparently
 11:12:16 17 after consulting the prosecution. Now I'm not suggesting
 11:12:19 18 there's anything remotely sinister about that, but things
 11:12:23 19 that he told you that turned out to be forensically
 11:12:25 20 contradicted by other evidence, it might be said by the
 11:12:29 21 person who's a bit suspicious and wants to see justice be
 11:12:30 22 done, might be removed from the statements". Clearly what
 11:12:35 23 Mr Lovitt is getting at is what's happened with these? How
 11:12:38 24 did these statements come about? Do you see that?---I do.
 25
 11:12:42 26 And you understood that that's what he was trying to get
 11:12:44 27 to, I take it?---Yep, yep.
 11:12:46 28
 11:12:47 29 Then Mr Horgan objects to "negotiated out" and Mr Lovitt -
 11:12:52 30 and there's some argy-bargy between the two which seems to
 11:12:56 31 be a feature of the proceeding. Lovitt then says, "Can you
 11:13:04 32 not see that if you take a statement say" - and he makes
 11:13:06 33 this comment effectively saying, "Well I'm your star
 11:13:11 34 witness, all right, and you sit down with me for hours and
 11:13:13 35 hours, days and days and you gradually get out of me a 20
 11:13:18 36 page statement, then meanwhile you're running off and
 11:13:21 37 seeing if the various small print information I give you
 11:13:23 38 such as where I was and e-TAGs", et cetera, et cetera. And
 11:13:26 39 at the very end of it there's some reference - "So you're
 11:13:34 40 continually trying to obtain information, aren't you, all
 11:13:37 41 the police would do that?" You say, "Well that didn't take
 11:13:40 42 place in all, the statement, there's some reference in my
 11:13:44 43 notes to doing that in the breaks in the statement but
 11:13:46 44 certainly from my point of view the integrity of the
 11:13:51 45 evidence is when the witness sits in the witness box and
 11:13:55 46 gives that evidence". That's the point you're making to me
 11:13:58 47 now, or the Commission now?---Yes.

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1
 11:14:00 2 Once he gets into the witness box and gives his evidence,
 11:14:03 3 that's the point, and as to the process whereby you get to
 11:14:06 4 the statement, that's really by the by?---No, I think I
 11:14:10 5 spell out the process in my supplementary statement that we
 11:14:14 6 adopt and, you know, I think it's clear in this matter we
 11:14:16 7 did adopt that process. So, you know, was it an issue at
 11:14:19 8 committal and at trial? Yes, it was a live issue and we
 11:14:22 9 faced cross-examination about it and so did he.
 10
 11:14:26 11 Yeah?---So, yeah - - -
 12
 11:14:31 13 Then he goes on - - - ?---I don't know what more I can say
 11:14:33 14 about it.
 15
 11:14:34 16 - - - and says - but do you see, "The witness sits in the
 11:14:35 17 box with a statement that says at the bottom he makes the
 18 statement, effectively - let's say it's got a perjury
 11:14:39 19 clause at the end of this. The witness sits in the box
 11:14:41 20 also with an indemnity that effectively means that if he
 11:14:46 21 doesn't swear up to what's in his statement he may well be
 11:14:50 22 brought before a court and resentenced and given twice as
 11:14:54 23 much". Then he talks about this witness and his various
 11:14:57 24 problems. And then he says this, "Can you not see by
 11:15:00 25 removing from the defence any skerrick of information about
 11:15:03 26 what he told you in the various steps leading up to the
 11:15:06 27 signing of that statement on 13 July, not just the defence,
 11:15:09 28 but someone sitting in the audience might say well, okay,
 29 if they're guilty let's convict them, but only on fairly
 11:15:13 30 obtained evidence beyond reasonable doubt. Can you not see
 11:15:14 31 that some people might think it's likely to create an
 11:15:18 32 unfairness?" And you say, "Well I don't see it. The
 11:15:21 33 evidence in the statement was obtained fairly and it was
 11:15:23 34 done with" - and you say that of course you do absolutely.
 11:15:27 35 "How do we know?" And you say, "Well, I'm sitting here
 11:15:30 36 having sworn on the Bible". Then Mr Lovitt says, "You
 11:15:33 37 might as well get rid of barristers". You say, "Great
 38 idea"?---I still believe that.
 39
 11:15:42 40 No doubt you do. He responds, "Well, what if you're
 11:15:43 41 charged with an offence, you might want a
 11:15:43 42 barrister"?---That's true.
 43
 11:15:44 44 Right. The point that he's making is a fair point, isn't
 11:15:47 45 it?---Yeah, I think - - -
 46
 11:15:51 47 If you take out of the process all of the bits and pieces

11:15:55 1 which lead to the making of the statement, you've got
11:15:56 2 someone sitting in the box, you're at a disadvantage;
11:16:02 3 aren't you?--Well look, I think there's a balance in that,
11:16:03 4 you know, as I try to spell out in my supplementary
11:16:10 5 statement, the process we undertake. You know, ultimately
11:16:14 6 in the end, as I've said here and I've said before, it is
11:16:17 7 the witness standing up in the witness box exposing himself
11:16:21 8 to cross-examination which is really the key.

9
11:16:23 10 To cross-examine him you need to be given the full story,
11:16:26 11 you need to know how the changes come about, the fact that
11:16:30 12 he's told you on one occasion, "This is the truth but I
11:16:33 13 want my barrister to see it". The barrister sees it and
11:16:36 14 says, "Well that's no good". Goes to see him and then the
11:16:39 15 statement's changed again. All of this is important if
11:16:43 16 you're going to test this witness's credibility, do you
11:16:45 17 accept that?--It could be, yep.

11:16:46 18
11:16:46 19 It could be? It is. You know, come on, Mr Bateson, you
11:16:46 20 know having sat in witness boxes and given evidence, that
11:16:49 21 sort of stuff is bread and butter and important stuff for
11:16:53 22 cross-examining a witness, do you accept that?--I accept
11:16:58 23 that it could be depending on what the changes were for any
11:17:02 24 particular witness, it could be fertile ground for
11:17:05 25 cross-examination.

26
11:17:06 27 In this particular case the issue of what [REDACTED] believed at
11:17:10 28 the time the murder was committed was quite significant,
11:17:13 29 you accept that?--They knew that though, they got the 464B
11:17:16 30 when he says the same thing.

31
11:17:20 32 Yes. Then if we could go on. He's asking you questions
11:17:27 33 about your notes. He's taking you through the various
11:17:33 34 processes and we get to the bottom of p.829: "When did he
11:17:40 35 sign the statement? The 13th of July. That's the [REDACTED]
11:17:45 36 - what, he signed both, shall we say, of the episodes that
11:17:46 37 are before the court on 13 July? Yes. What statement did
11:17:50 38 you have in your possession that he was allowed to read and
11:17:54 39 see if it was true and correct on the 9th?" And you say,
11:17:57 40 "[REDACTED] statement". He had both, didn't he?--Yes.

41
11:18:00 42 "Was that altered between the 9th and the 13th?" You say,
11:18:05 43 "No, basically, as you can see, there's that reference
11:18:10 44 there. What happened from there, it was taken to his legal
11:18:11 45 representative at his wishes". Now, you're given that bit
11:18:13 46 of information, it was taken to his legal
11:18:18 47 representative?--And the next questions.

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1
 11:18:19 2 What, he wanted the last two lines of the paragraph added.
 11:18:22 3 That was in the notes. So he was aware of that and you've
 11:18:26 4 given the extra bit of information about it wanting to go
 11:18:30 5 to the lawyer, which had been taken out of your notes, do
 11:18:33 6 you accept that?---Yeah, I think that kind of proves what
 11:18:36 7 I'm trying to say, doesn't it?
 8
 11:18:38 9 But what you don't provide is what occurred next, that the
 11:18:42 10 statement is then changed?---How is it changed?
 11
 11:18:47 12 And he asked you questions about the two lines that were
 11:18:54 13 added at paragraph 52?---So that's important.
 14
 11:18:59 15 Do you see that?---That's why I say maybe it was two
 11:19:01 16 sentences because I looked at this the other day.
 17
 11:19:03 18 Yes?---"██████████ was going to be murdered. I'm sure at
 11:19:06 19 this point that ██████████ was going to be murdered but by
 11:19:11 20 this stage it was too late for me to pull out. The best
 21 thing I could do was to maintain honour and keep focus. I
 11:19:14 22 didn't want anyone else getting hurt". So that was the
 11:19:17 23 last two lines and I think when the last time, some changes
 11:19:24 24 to his belief I think's in a couple of paragraphs where he
 11:19:25 25 says, "I think I probably always thought it could be".
 26
 11:19:29 27 Those were changes made as to his belief about what was
 11:19:32 28 going to occur with the murder?---And they've got it.
 29
 11:19:35 30 And it was then taken to Gobbo and Gobbo said, "That's
 11:19:38 31 ridiculous", or she's sceptical about that. She goes out
 11:19:43 32 to see him and then it's changed again, correct?---Yeah,
 11:19:47 33 and that's all there.
 34
 11:19:48 35 No, it's not. You then make an entry in your diary, having
 11:19:52 36 spoken to Ms Gobbo, in which you say that he's going to be
 11:19:55 37 more, which you cross out, more forthcoming, and you say
 11:19:58 38 he's going to be truthful. She then goes and sees him.
 11:20:03 39 The statement is then changed?---So you're saying because I
 11:20:07 40 didn't record the conversation with Ms Gobbo, I didn't
 11:20:12 41 release that, that's my fault?
 42
 11:20:14 43 No. What you didn't make clear was the process by which
 11:20:18 44 the statement then changed. After those two lines were
 11:20:22 45 added it was then changed again as a consequence of
 11:20:26 46 discussing it with Ms Gobbo?---Isn't that in my notes too?
 47

.20/11/19

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BATESON XXN - IN CAMERA

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11:20:29 1 It's not in the notes which were provided to the court I
 11:20:33 2 suggest, Mr Bateson?---Yeah, I'm not sure that I - - -
 3
 11:20:36 4 You say you don't accept that; is that right?---Well yeah,
 11:20:41 5 I'm not sure that I can based on the reasons that we talked
 11:20:44 6 about earlier.
 7
 11:20:47 8 All right?---Certainly there that shows that I'm not hiding
 11:20:50 9 the involvement of the lawyer. I'm pretty clear about what
 11:20:54 10 he's added, and that goes to the same subject you're
 11:20:58 11 talking about, about his belief.
 12
 11:20:59 13 It does, but the point that I'm making to you, Mr Bateson,
 11:21:02 14 is that you exclude the important information about those
 11:21:06 15 changes being made, the scepticism being expressed by you
 11:21:09 16 and by Ms Gobbo, Gobbo speaking to the witness and the
 11:21:14 17 statement then changing again, that is kept out?---Does he
 11:21:19 18 ask me why he wanted those changed? I can't remember.
 11:21:21 19
 11:21:22 20 Then if you go on to the next page, "It really was a
 11:21:25 21 negotiated statement, wasn't it?" You say, "Well, I don't
 11:21:28 22 know, I don't know if that's a fair summation to have a
 11:21:31 23 wish that you want your legal rep. to see it before signing
 11:21:34 24 it. I don't know that that's fair. Maybe it is, I don't
 11:21:37 25 know". Clearly it's not just having the rep. see it before
 11:21:41 26 it's signed, because the rep. sees it, it's then changed
 11:21:45 27 again. That's the point that I'm making?---Well look, I'm
 11:21:49 28 not sure that we're not going around in circles.
 29
 11:21:54 30 Well we probably are?---But I do feel like, you know,
 11:21:56 31 clearly from this cross-examination I'm not hiding that
 11:22:00 32 it's gone to a legal rep. I'm not hiding the fact that it's
 11:22:03 33 changed. It doesn't seem to be - and I don't know that it
 11:22:04 34 was changed based on her advice, mind you. It seems
 11:22:10 35 probable considering the change of events. It doesn't seem
 11:22:13 36 too much of a stretch for them to ask about that. Show it
 11:22:20 37 to the lawyer and then it's changed. I don't know that
 11:22:23 38 that's hiding.
 39
 11:22:23 40 If that's the case, Mr Bateson, can I ask this: when you
 11:22:28 41 redact the notes why don't you simply take out the name, as
 11:22:32 42 you suggested to this Royal Commission when you previously
 11:22:35 43 gave evidence, take out the name and leave the rest there,
 11:22:39 44 so the only issue then - we don't know who the lawyer is.
 11:22:42 45 You chose not to do that, didn't you?---Yeah, and I think I
 11:22:45 46 explained that a bit earlier.
 47

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11:22:46 1 You better explain it again because I don't follow
 11:22:49 2 it?--When I did it in that, and I'm asked by Mr Lovitt
 11:22:52 3 later on, "Why did you just exclude the name of the
 11:22:56 4 lawyer?", and of course, as I said earlier, I was sitting
 11:22:59 5 in the witness box going, "Well there's a bloody red flag,
 11:23:03 6 isn't it? Why have I done that?" [REDACTED] would be sitting
 11:23:06 7 there thinking to himself, hang on, what's going on here".
 11:23:11 8 So I actually thought to myself then, sitting there going,
 11:23:14 9 well, yeah, that was silly, I should have probably excluded
 11:23:17 10 or redacted the name of the prosecutor and the judge as
 11:23:24 11 well so I wasn't alerting the people that would wish her
 11:23:27 12 dead, murdered, to the fact that she was his lawyer.
 13
 11:23:31 14 Well the issue was, wasn't it, that you wanted to protect
 11:23:35 15 her and it was appropriate to take out her name, that's
 11:23:38 16 what you say you did?--Yeah, but I think also, as we can
 11:23:43 17 see, as we've explored this today, the name can't be taken
 11:23:48 18 out in isolation without alerting the defendants to a
 11:23:56 19 potential issue.
 20
 11:23:58 21 Yes, all right. Then if we go to p.847, he's moving
 11:24:02 22 through your notes. Then there's a discussion, there'd
 11:24:08 23 been the discussion about, as you say - perhaps we'll go
 11:24:12 24 back to 844. He gets to the [REDACTED] court hearing part of
 11:24:16 25 your notes, this is 844, bottom of the page. Mr Horgan's
 11:24:22 26 prosecuting, something else is crossed out, and this is the
 11:24:26 27 part you're referring to; is that right?--Yeah, that's it.
 11:24:31 28 That's the clear memory I have of the issue because I
 11:24:34 29 remember sitting in the box thinking "Oh God".
 30
 11:24:36 31 The magistrate says, "Well at this stage Mr Bateson can't
 11:24:39 32 answer that question", and it may be innocuous, do you see
 11:24:44 33 that, right?--Yeah, so I think that sort of illustrates
 11:24:48 34 that the magistrate did review those redactions and did
 11:24:51 35 know - - -
 36
 11:24:52 37 He reviewed the redactions and we can see that he reviewed
 11:24:57 38 the page, Mr Lovitt could see the page that was reviewed
 11:25:00 39 and there was an entry which was redacted on that date, 18
 11:25:03 40 June, right?--Yeah, yep.
 41
 11:25:08 42 Then if we go to 847 he's asking you, he's going through
 11:25:12 43 it. Then you've got 9 July at 847, do you see that?--Yep.
 44
 11:25:17 45 You've got notes there at the start of the day, do you see
 11:25:21 46 that?--Further deletions, yep.
 47

.20/11/19

9608

BATESON XXN - IN CAMERA

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11:25:24 1 If we go over the page?---So that's I think a little bit
 11:25:31 2 important too.
 3
 11:25:31 4 Righto, tell us what's important?---His Honour said, "I
 11:25:35 5 don't think you can. While I can understand your
 11:25:38 6 curiosity, curiosity, our frustration perhaps. Having
 11:25:44 7 dealt with it in the way that I have for the reasons that I
 11:25:46 8 did I don't believe" - and I think Mr Lovitt says, "I'm not
 11:25:50 9 questioning perhaps Your Honour's ruling".
 10
 11:25:59 11 Mr Bateson, I'm not making any criticism about 9 July.
 11:26:03 12 You've provided the defence with the page, you've provided
 11:26:05 13 the magistrate with the page. So the magistrate says,
 11:26:09 14 "Yep, those redactions are okay", correct?---I don't know.
 11:26:13 15 I felt like you were - - -
 16
 11:26:15 17 No, I'm not criticising you at all. I'm suggesting to you
 11:26:19 18 that if you provided it to the magistrate so the court
 11:26:21 19 knows what it is that it's redacting, the defence knows
 11:26:25 20 there's a page of relevant material, that there are
 11:26:28 21 redactions for a particular reason with respect to public
 11:26:30 22 interest immunity, and he's told that he can't ask
 11:26:37 23 questions about that "because it's something that I have
 11:26:39 24 ruled out", do you follow?---Yeah, I think that's one of
 11:26:43 25 the important points that I keep coming back to.
 26
 11:26:46 27 Yes?---Is that he knows there's concerns about releasing
 11:26:48 28 the name of Ms Gobbo and he's ruled that that's
 11:26:56 29 appropriate.
 30
 11:26:56 31 Yes?---In his duty, I guess, to balance the competing
 11:27:03 32 needs.
 33
 11:27:03 34 But he's got to have all the information in front of him,
 11:27:07 35 that's what I'm suggesting to you. And if he doesn't have
 11:27:09 36 the information of what occurs on the 10th and the 11th and
 11:27:13 37 the 12th of July, then he hasn't got all the information
 11:27:16 38 about the important involvement that the lawyer has, do you
 11:27:19 39 see what I'm saying?---Yeah. I think there's two things
 11:27:22 40 there. One, I'm not ready to accept that he hasn't because
 11:27:25 41 of the first day argument about the 28 entries that we talk
 11:27:29 42 about.
 43
 11:27:30 44 Yes?---But two, I think, you know, clearly I'm sitting in a
 11:27:37 45 Royal Commission around Ms Gobbo, but I never thought her
 11:27:42 46 involvement was particularly significant, and still don't
 11:27:47 47 to this day.

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1
 11:27:48 2 Yes?---In terms - and even if you go to the sentencing of
 11:27:53 3 [REDACTED], Mr [REDACTED] says, "I must allow for your spin and
 11:27:59 4 you will have to deal with that in time". It's clear even
 11:28:04 5 to Mr [REDACTED] that, you know, the stuff around his belief
 11:28:10 6 was quite possibly spin. So I never - I thought that was
 11:28:15 7 obvious to everyone and, you know, I thought for the life
 11:28:21 8 of me thought we'd produced everything. That's why I say
 11:28:26 9 this conversation there I think with Mr Lovitt sort of
 11:28:29 10 talks about me saying, "I brought these to the magistrate's
 11:28:32 11 attention". So I didn't think she was significant in all
 11:28:38 12 this.

13
 11:28:39 14 You didn't think it was significant but the reality is
 11:28:41 15 there was a great deal of questioning about these aspects
 11:28:44 16 of it and how the statement came about, you accept
 11:28:47 17 that?---What I accept is during those days there was only
 11:28:50 18 two ways that these important witnesses can know
 11:28:53 19 information. Either they knew it and they did it or the
 11:28:59 20 police were somehow corrupt in their activities and that
 11:29:02 21 was certainly a live subject not only at the committal but
 11:29:05 22 at the trial. It was - it's a pretty common - - -

23
 11:29:11 24 Can I just stop you. Mr Bateson, we'll get through this
 11:29:14 25 quicker if you simply listen to the question and answer the
 11:29:16 26 question. Do you accept it's significant or not that the
 11:29:20 27 witness is changing his statement right up to the signing
 11:29:22 28 of it?---I think it's significant enough for me to note it
 11:29:27 29 in my notes, yes.

30
 11:29:29 31 Then if we go to 848 we see, we've got to 9 July. "We've
 11:29:34 32 done 9 July. Yes, 12 July. Okay, what happened on then,
 11:29:40 33 what happened on 12 July? We went with, just let me look
 11:29:43 34 over this page here. We went to the prison", right. "We
 11:29:48 35 gave him a look at the statement. We then went to Werribee
 11:29:51 36 to print them off. We got him to read them again and once
 11:29:55 37 again he wanted to talk to his lawyer before he signed them
 11:29:59 38 and that's why we came back on the 13th for a
 11:30:02 39 video-recorded read back. He wanted to have another chat
 11:30:05 40 with his lawyer", right?---So was this actually - I just
 11:30:10 41 wanted to check this. I'm talking about out at Werribee.
 11:30:13 42 Is that one of the pages you said I didn't include ?

11:30:16 43
 11:30:16 44 No, it's the page that you do put in. You go out to see
 11:30:19 45 him again and you go to the Werribee police station, you
 11:30:24 46 photocopy - - - ?---Isn't that the second page that I talk
 11:30:27 47 about Werribee that you said I didn't include?

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1
11:30:30 2 Just excuse me?---I think you say I do include the first
11:30:40 3 page but I think the second page was excluded. I just have
11:30:46 4 a memory of that. I may be wrong.
5
11:30:49 6 What you do is the next page that you include - it may well
11:31:22 7 be - - - ?---That tends to be, if that is one of the pages
11:31:28 8 you say was missing, this tends to indicate to me that he
11:31:32 9 got those on the morning.
10
11:31:34 11 COMMISSIONER: Do you want to check that over the morning
11:31:36 12 break?
13
11:31:37 14 MR WINNEKE: I'm happy to do that, Commissioner.
11:31:40 15
11:31:41 16 MS ENBOM: Commissioner, before we break can I just raise
11:31:43 17 one quick matter. A change of substance at least to made
11:31:45 18 to the transcript. Page 9599, line 28, if I heard
11:31:57 19 Mr Winneke correctly I think he described Justice King's
11:32:01 20 comments as "pretty ill-thought out" and the transcriber
11:32:07 21 has used the "well" instead of "ill", so the transcript
11:32:12 22 reads "pretty well thought out", it should be "pretty ill
23 thought out".
24
11:32:16 25 MR WINNEKE: Yes, I did, and no doubt Justice King wouldn't
11:32:18 26 be happy with me, but I did say "ill thought out". Perhaps
27 ill considered.
28
11:32:21 29 COMMISSIONER: Can I just make sure we've got the right
11:32:24 30 page. 9599 was it?
11:32:26 31
11:32:27 32 MS ENBOM: Yes, according to my line of transcript 9599,
11:32:30 33 line 28.
34
11:32:33 35 COMMISSIONER: "Pretty well thought out". "Pretty ill
11:32:35 36 thought out" it should be, yes. We'll make that correction
11:32:38 37 then if everyone's happy with that.
11:32:40 38
11:32:41 39 MS ENBOM: Thank you.
40
11:32:43 41 MR WINNEKE: Thanks Commissioner.
42
11:32:45 43 COMMISSIONER: "Pretty ill thought out" it should be.
44
11:32:48 45 MR WINNEKE: Ill considered. Without giving a great deal
11:32:52 46 of thought to it.
47

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11:32:55 1 COMMISSIONER: Just so the transcript's correct.
2
3 MR WINNEKE: No, I understand that. I just wanted to
11:33:02 4 correct it lest at some stage she reads it and says - she
5 didn't give it a great deal of thought.
6
11:33:02 7 COMMISSIONER: You're fortunate she's retired now,
11:33:04 8 Mr Winneke. All right then. We'll have the mid-morning
11:33:07 9 break.
10
11 (Short adjournment.)
12
11:55:05 13 COMMISSIONER: Mr Chettle, you wanted to say something?
11:55:07 14
11:55:07 15 MR CHETTLE: One very brief matter, Commissioner.
11:55:09 16 Yesterday I raised the statements I didn't have or wanted.
11:55:12 17 I'm told that Mr McWhirter is likely to be next, I haven't
11:55:15 18 got his statement and he does relate to us. Can I just
11:55:19 19 simply say I won't be able to cross-examine him until I've
11:55:22 20 read it.
11:55:23 21
11:55:24 22 COMMISSIONER: So it's awaiting PII, is that the position?
11:55:27 23
11:55:27 24 MR CHETTLE: No, it was provided in September I'm told, to
11:55:34 25 the Commission.
11:55:34 26
11:55:35 27 MR WINNEKE: I agree Mr Chettle can't cross-examine until
11:55:39 28 he's got it, he should have it. I gather what's occurring
11:55:45 29 is that there are various shaded versions and so forth and
11:55:48 30 we're trying to work out which one is the appropriate one.
11:55:51 31
11:55:52 32 MR CHETTLE: I should have the totally unredacted one so I
11:55:56 33 can inspect it.
11:55:56 34
11:55:57 35 COMMISSIONER: I think then the true position is we're
11:55:59 36 waiting for Victoria Police to inform us which version you
11:56:03 37 can be given.
11:56:03 38
11:56:04 39 MR CHETTLE: No, Commissioner, that's already agreed. I
11:56:07 40 can have the unshaded versions which show the words.
11:56:10 41 That's been the arrangement I've been having. The
11:56:13 42 witnesses that relate to me, there's no issue about this.
11:56:16 43
11:56:17 44 MS ENBOM: I think that's right, I think Victoria Police
11:56:19 45 provided a shaded version to the Commission that should
11:56:21 46 have been passed on.
11:56:21 47

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11:56:21 1 COMMISSIONER: A shaded version or an unshaded version?
 11:56:23 2
 11:56:24 3 MS ENBOM: Yes, shaded.
 4
 11:56:27 5 COMMISSIONER: Mr Chettle is saying he should have - - -
 11:56:27 6
 11:56:28 7 MR CHETTLE: I don't mind shaded, shaded is fine.
 11:56:29 8
 11:56:30 9 COMMISSIONER: All right. Is that clear then as to which -
 11:56:33 10 we've got two different shaded versions.
 11:56:36 11
 11:56:36 12 MR WINNEKE: I gather there are two shaded versions. It
 13 doesn't really matter if they're shaded. They're shaded,
 14 it doesn't matter, he can see the words. That should be
 11:56:42 15 provided to him.
 11:56:42 16
 11:56:42 17 COMMISSIONER: Give him both, as soon as possible. Thank
 11:56:44 18 you.
 11:56:45 19
 11:56:45 20 MR WINNEKE: All right, you'll be glad I'm going to leave
 11:56:49 21 this particular topic, Mr Bateson. Just before I do, I
 11:56:53 22 just want to ask you - - - ?---Could I ask was that one of
 11:56:58 23 the pages missing, because I just wanted to get it clear in
 11:57:01 24 my own mind?
 11:57:02 25
 11:57:02 26 Sorry, which page are you talking about?---The page we were
 11:57:06 27 just speaking about before.
 11:57:07 28
 11:57:07 29 No, you provided that statement. You provided that page.
 11:57:12 30 So what you were saying, "It may well be there was pages
 11:57:17 31 that he wasn't, in the depositions that we don't see and he
 11:57:21 32 might have been provided with other pages", is that what
 11:57:24 33 you say?---No, no, the page about - I was being
 11:57:28 34 cross-examined about, by Lovitt.
 11:57:30 35
 11:57:30 36 Yeah, by Lovitt?---About the Werribee police station.
 11:57:33 37
 11:57:33 38 Yeah?---And I thought that page, which the note of that - -
 11:57:36 39 -
 11:57:36 40
 11:57:37 41 Wasn't in the depositions?---Wasn't in the depositions.
 11:57:39 42
 11:57:40 43 No, it's in the depositions. If we can put the depositions
 11:57:43 44 up and go to 2291. So Mr Lovitt has the benefit of this
 11:57:51 45 page, it has been provided to him and he puts it to you at
 11:57:57 46 2291. Do you see that?---Okay.
 11:58:08 47

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11:58:09 1 Go back to 2290?---Yep.

11:58:12 2

11:58:13 3 2289?---I accept that. It was just that first page that I

11:58:18 4 thought was one you put to me earlier.

11:58:20 5

11:58:20 6 No, no. That's based on what you've told him, what he's

11:58:26 7 got?---Yep.

11:58:27 8

11:58:28 9 If we then just finish this off, at 848, 849, bottom of

11:58:35 10 848, "We gave him a look at the statements. We then went

11:58:38 11 to Werribee to print them off". So in fact you say that,

11:58:43 12 but that's based on your notes. "And got him to read them

11:58:50 13 and once again he wanted to talk to his lawyer before he

11:58:53 14 signed them and that's why we came back on the 13th for a

11:58:57 15 video recorded read back" and obviously in your, I think in

11:59:06 16 the notes that you provide, that is p.2292, there are notes

11:59:15 17 of that. So that's provided to him as well. But what he

11:59:20 18 doesn't have, I suggest to you, and what Mr Lovitt doesn't

11:59:24 19 know about and what is not cross-examined about is what

11:59:28 20 occurs on the weekend when Ms Gobbo is involved, the 10th

11:59:33 21 and 11th July 2004. That page I suggest is not provided

11:59:38 22 and you say, "Well look I'm not prepared to accept that it

11:59:41 23 wasn't provided to the magistrate"?---Yeah. I think the

11:59:44 24 other point to make is early in the cross-examination I do

11:59:48 25 say they go to his lawyer for reading, don't I?

11:59:51 26

11:59:52 27 No. Well, what I'm suggesting to you is that on the 9th -

12:00:00 28 - - ?---It just says here he wanted to have another chat to

12:00:03 29 his lawyer, so what I'm saying is we've already been to the

12:00:06 30 lawyer once and that's the second time, isn't it? That was

12:00:09 31 put earlier to me in this cross-examination.

12:00:12 32

12:00:12 33 Yeah, what the notes reveal you said is he wanted to speak

12:00:15 34 to his lawyer. You then, that's the 9th, he's not prepared

12:00:21 35 to sign?---Yeah.

12:00:22 36

12:00:23 37 On the 12th you take them out. He wants to speak to his

12:00:26 38 lawyer. Another chat with his lawyer. So Mr Lovitt's

12:00:29 39 aware of that, yes?---Yep.

12:00:31 40

12:00:31 41 "The statements were in what form? Were they in hard copy

12:00:34 42 or just on a computer, say around the 9th or 12th of July?

12:00:39 43 I believe they were in hard copy by that stage, but not

12:00:42 44 signed? No, not signed. What happened to the unsigned

12:00:46 45 statements that existed prior to the signing on 13 July?

12:00:50 46 They were signed"?---H'mm.

12:00:52 47

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12:00:52 1 Now, there were unsigned statements which existed on the
 12:00:56 2 9th of July that were never signed and were
 12:01:04 3 destroyed?---That could be it, yeah.
 12:01:05 4
 12:01:06 5 That's right, isn't it?---Yeah.
 12:01:07 6
 12:01:07 7 Again I suggest to you that in that answer you don't
 12:01:10 8 present the full picture and you knew you weren't
 12:01:15 9 presenting the full picture?---I think what I was trying to
 12:01:19 10 say, and I don't think I was trying to hide that there was
 12:01:22 11 drafts or printed, what I was trying to say and I hope I
 12:01:26 12 got across was that there was only one final document.
 12:01:32 13
 12:01:34 14 But hang on, Mr Bateson, you know that there was an
 12:01:37 15 unsigned statement and that is the exact question that
 12:01:41 16 Mr Lovitt is asking you about. He's asking you about,
 12:01:45 17 "Well what happened to the statements that existed on the 9
 12:01:50 18 July?" And we know there was a statement which existed on
 12:01:55 19 10 July which was taken to Ms Gobbo and it was, Ms Gobbo
 12:02:00 20 has said repeatedly, "Look, I altered that statement or
 12:02:03 21 there were alterations made as a consequence of my
 12:02:06 22 involvement", and what you say in your answer is, "The
 12:02:14 23 unsigned statements", because he asked you the question
 12:02:18 24 about the statements around the 9th or 12th July, "What
 12:02:23 25 happened to the unsigned statements that existed prior to
 12:02:25 26 13 July? They were signed". Now that answer, I suggest,
 12:02:31 27 conceals what in fact occurred or misleads the court as to
 12:02:36 28 what in fact occurred?---I certainly didn't mean to be
 12:02:41 29 misleading but, you know, I can see your sinister take on
 12:02:45 30 it.
 12:02:45 31
 12:02:45 32 It's not sinister, Mr Bateson?---No, I didn't - sorry, I
 12:02:48 33 apologise, I didn't mean you were being sinister. I was
 12:02:51 34 trying to say that you're saying that I was being sinister.
 12:02:55 35
 12:02:56 36 What I'm simply saying to you is this, Mr Bateson, if what
 12:03:01 37 you say is correct, if you'd said to the magistrate before,
 12:03:04 38 in private, with no one else able to hear, "Look what
 12:03:08 39 happened was this, 9th of July we go and see him, wants to
 12:03:12 40 see the lawyer. The lawyer then sees him, Ms Gobbo sees
 12:03:16 41 him on the 10th, on the Saturday, Mr Hatt", all of that
 12:03:19 42 story, if you'd answered that, the magistrate would say
 12:03:22 43 obviously, "Mr Bateson, that's actually, you're really not
 12:03:25 44 presenting the whole picture there because I know, because
 12:03:28 45 I've had a private hearing with you, and you've told me
 12:03:31 46 what happened on the 10th", do you see that?---I can see
 12:03:35 47 how that might be - - -

12:03:38 1
 12:03:38 2 What I suggest to you is - - - ?---I'm not sure that I'm
 12:03:41 3 willing to concede that's what happened.
 12:03:42 4
 12:03:43 5 Yeah. What I'm suggesting to you is that if you had fully
 12:03:45 6 ventilated that with the magistrate, and I suggest you
 12:03:48 7 didn't, it would have been plain as a pikestaff that the
 12:03:53 8 magistrate would have picked you up on that?---I'm not sure
 12:03:57 9 that that's true. There's other examples of, you know,
 12:04:00 10 when he talks about the redaction of only Ms Gobbo at
 12:04:04 11 court, he's equally as cagey about what went - I'm saying
 12:04:08 12 cagey because that's my belief, he's equally as cagey about
 12:04:12 13 what I said in that hearing.
 12:04:13 14
 12:04:13 15 Sorry, who's being cagey?---The magistrate. The
 12:04:16 16 magistrate's not saying, "Hang on, I know exactly why that
 12:04:20 17 is". He's just saying, "I ruled on it and that's it".
 12:04:24 18
 12:04:25 19 Well, so you're suggesting that the magistrate was aware
 12:04:27 20 that you had in effect misled him or misled the other
 12:04:30 21 people in the court and in effect connived him, is that
 12:04:34 22 what you're suggesting?---No, not by a long shot.
 12:04:36 23
 12:04:36 24 You're suggesting that he was aware of what occurred on 10
 12:04:40 25 and 11 July, your discussions with Gobbo, the changes that
 12:04:44 26 are made, and he allowed you to answer that question
 12:04:47 27 without pulling you up?---Well yeah, I think so. That's
 12:04:53 28 exactly right. I mean when you look at that statement,
 12:04:54 29 whether it's being fully disclosing everything that
 12:04:58 30 happened, the statements that existed, there was only one
 12:05:02 31 statement that existed on 13 July or even on 12 July and
 12:05:05 32 that was signed.
 12:05:06 33
 12:05:06 34 Yes, but it was a different statement. See, there was a
 12:05:09 35 hard copy statement which Hatt took to see Gobbo on 10
 12:05:17 36 July?---No, no, no.
 12:05:18 37
 12:05:18 38 Listen to the question. On 10 July which Ms Gobbo
 12:05:20 39 expressed scepticism about. That statement was then
 12:05:24 40 changed when Ms Gobbo went and saw [REDACTED] the following day on
 12:05:28 41 Sunday, because you'd made arrangements for her to get in
 12:05:32 42 and see him extra quick. Then the statement's changed and
 12:05:36 43 then it is signed. Do you accept that proposition? Now
 12:05:39 44 I've asked you that plenty of times? Do you accept
 12:05:44 45 that?---I'm not sure that I'm willing to accept it because
 12:05:47 46 I actually wasn't listening to you when you said that, I
 12:05:52 47 was thinking of something else.

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1
12:05:54 2 Well why don't you listen to the question?---Can I say that
12:05:55 3 I do accept that we take the statement back to her, then he
12:06:01 4 makes statements, and then we go back again and he makes a
12:06:08 5 further slight change to his belief.
12:06:10 6
12:06:10 7 You say a slight change to his belief?---Yeah.
12:06:13 8
12:06:13 9 It's a change to what he believed was going to take place,
12:06:17 10 correct?---No, I think at that point it's just like, yeah,
12:06:21 11 I think, I suppose I could have thought it was always going
12:06:24 12 to be a murder. We'd have to look to the [REDACTED]
12:06:27 13 statement.
12:06:27 14
12:06:28 15 What we'd have to look to I suggest, Mr Bateson, is the
12:06:32 16 draft copy of the statement which has been
12:06:35 17 destroyed?---Well yeah, you could.
12:06:36 18
12:06:36 19 But we can't, can we, because it's been destroyed?---Yeah.
12:06:40 20
12:06:40 21 Correct?---Correct.
12:06:41 22
12:06:46 23 Did you have a practice of taking hard copies of statements
12:06:54 24 and then destroying those hard copies of statements when
12:07:02 25 you made subsequent changes to the contents of the
12:07:06 26 statement? Was that a practice?---I think I outlined as
12:07:10 27 best as I could my practice in my supplementary statement
12:07:14 28 and - - -
12:07:17 29
12:07:17 30 Was that a practice, to print off hard copies of statements
12:07:20 31 and then destroy them if they were then changed?---Yeah,
12:07:25 32 yep.
12:07:25 33
12:07:25 34 That's the practice?---That was my practice, yeah.
35
12:07:28 36 All right?---I always believed the final product was the
12:07:31 37 only product.
12:07:31 38
12:07:32 39 Yep?---And that was what he was willing to sign or what the
12:07:37 40 witness was willing to sign and give evidence about. For
12:07:41 41 me that was the exhibit, that was the evidence and that was
12:07:44 42 what we kept in existence.
12:07:45 43
12:07:46 44 Was that a practice which pertained at Purana?---I have no
12:07:49 45 idea. That was my practice.
12:07:51 46
12:07:51 47 Right. And Mr Flynn's given evidence that he had spoken to

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12:07:54 1 you about your practice and then he adopted that practice.
 12:07:58 2 Do you accept that?---I can't speak for Mr Flynn, I don't
 12:08:03 3 recall that conversation with him.
 12:08:05 4
 12:08:08 5 Did you ever make it clear to the Crown, to any of the
 12:08:13 6 prosecutors that that was your practice, that is when
 12:08:16 7 statements were taken, printed off, they weren't retained
 12:08:22 8 if they were subsequently changed?---Yeah, I think that's
 12:08:26 9 pretty clear from this cross-examination, isn't it?
 12:08:30 10
 12:08:30 11 Where do you say it's clear from the cross-examination?
 12:08:34 12 You point out where it's clear that there were statements
 12:08:37 13 taken and then destroyed? Do we find that on p.849 that
 12:08:44 14 I've just asked you questions about?---I guess what I'm
 12:08:45 15 saying - - -
 12:08:46 16
 12:08:46 17 Where do you find it in the cross-examination?---I guess
 12:08:49 18 I'm saying I think it's clear in this cross-examination
 12:08:51 19 that there's only one final product, and Mr Horgan and the
 12:08:54 20 OPP and indeed others know that I've taken statements to
 12:08:58 21 the lawyer to be reviewed.
 12:09:00 22
 12:09:00 23 What Mr Lovitt is asking you about is, "Were they in hard
 12:09:04 24 copy or just on a computer say around 9 or 12 July? I
 12:09:09 25 believe they were in hard copy by that stage". Well that's
 12:09:14 26 correct because one of them was taken to Gobbo. "But not
 12:09:17 27 signed? No, not signed. What happened to the unsigned
 12:09:21 28 statement that existed prior to the signing? They were
 12:09:24 29 signed". That suggests there was an unsigned copy on 9
 12:09:27 30 July, it was then signed?---I'm answering the question,
 12:09:32 31 look, I'm trying to put myself into the witness box some 14
 12:09:36 32 years ago, 15 years ago but, you know, looking at that
 12:09:40 33 question maybe I was on the thing that what happened to the
 12:09:43 34 statements, you know, on the 12th of July. I got them
 12:09:48 35 signed.
 12:09:48 36
 12:09:50 37 "The same documents? Yes. How do you know? How do you
 12:09:54 38 know or how do I know? How do you know? Because I have a
 12:09:57 39 memory of it. And of course, you know, we've got to accept
 12:10:00 40 that you're saying it's true, right? I hope you do,
 12:10:03 41 Mr Lovitt. Right". So he's effectively saying, "We've got
 12:10:08 42 to rely on your say so about that" and you say, "Look, I
 12:10:12 43 hope you do". But what I'm suggesting to you is that he
 12:10:16 44 couldn't rely on what you were saying because in fact there
 12:10:19 45 was a whole process which was simply left out?---No, I
 12:10:22 46 don't accept that.
 12:10:23 47

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12:10:23 1 Okay. All right. Now, I'll move on you'll be glad to
 12:10:30 2 hear. Just excuse me. Mr Lovitt made a no case submission
 12:10:45 3 at the end of the committal proceeding, is that right, or
 12:10:51 4 at least - he'd made a submission that [REDACTED] ought be
 12:10:55 5 discharged, do you accept that?---Look, to be honest I
 12:10:59 6 didn't get to that part reading over the last few days. I
 12:11:02 7 certainly know there was an exchange between him and I
 12:11:06 8 about the likelihood of the charges succeeding.
 12:11:08 9
 12:11:08 10 Yes. And Mr Lovitt apparently, he said he had - his view
 12:11:15 11 was that his client, the case at that stage was based
 12:11:18 12 purely on the evidence of [REDACTED] plus other material but
 12:11:21 13 essentially it was [REDACTED]?---It certainly tipped the
 12:11:25 14 scales, yes.
 12:11:26 15
 12:11:27 16 And you were asked questions about it and ultimately you
 12:11:30 17 conceded that the essence of the case against him was
 12:11:33 18 [REDACTED]?---(Witness nods.)
 12:11:34 19
 12:11:34 20 Mr Lovitt said to you and put to the magistrate that the
 12:11:36 21 case against [REDACTED] was a weak case, and indeed so weak
 12:11:41 22 that he ought to be discharged?---I don't remember that but
 12:11:44 23 I accept if you're reading it from the transcript.
 12:11:47 24
 12:11:47 25 Ultimately, in fact he, you and he made a bet, didn't you,
 12:11:52 26 or something like that?---Yeah. Never got to collect
 12:11:56 27 either.
 12:11:57 28
 12:11:58 29 So quite clearly it was his view that, certainly insofar as
 12:12:04 30 the view that he expressed to you and the view that he
 12:12:07 31 expressed to the magistrate that the case against him was a
 12:12:10 32 weak case based on essentially an accomplice or a
 12:12:18 33 co-accused?---He expressed that view, I didn't share it.
 12:12:20 34
 12:12:21 35 Yes. Hence the bet?---Yeah.
 12:12:23 36
 12:12:25 37 All right. Now, as we know, Ms Gobbo contacted you shortly
 12:12:33 38 afterwards, I think on 23 March, and thanked you for
 12:12:41 39 keeping her name out of the committal proceeding,
 12:12:43 40 correct?---Correct, yes.
 12:12:44 41
 12:12:46 42 And in that conversation she started, if you like,
 12:12:53 43 providing you with information about Solicitor 2?---Yes.
 12:13:00 44
 12:13:02 45 And she said that Solicitor 2 was badmouthing her, that is
 12:13:06 46 Ms Gobbo, to Carl Williams?---Carl Williams and others,
 12:13:12 47 yes.

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12:13:12 1
 12:13:13 2 And others. And she also said that Barrister 1 was
 12:13:16 3 charging \$5500 a day and wouldn't attend court if he wasn't
 12:13:22 4 paid, she told you that?---Yes.
 12:13:24 5
 12:13:24 6 And she also stated that none of the barristers involved
 12:13:29 7 could be trusted and that any approaches to potential
 12:13:34 8 witnesses should not be made through those
 12:13:36 9 barristers?---Correct.
 12:13:37 10
 12:13:42 11 She stated that Leanne Warren's firm had received a big
 12:13:54 12 backlash because of [REDACTED]'s involvement?---That's what
 12:14:00 13 she said, yes.
 12:14:01 14
 12:14:02 15 Yes. You indicated or your view was that you were
 12:14:03 16 interested in those comments about the lawyers as they were
 12:14:06 17 viewed, as you've said in this proceeding, as, viewed by
 12:14:10 18 your crew as being part of a criminal enterprise that
 12:14:13 19 Purana was working to breakdown, correct?---Yes.
 12:14:15 20
 12:14:19 21 At that stage it seems that Ms Gobbo is approaching you and
 12:14:23 22 wanting to provide information to you, correct?---Provide
 12:14:29 23 that information at that point is what she's doing, yes.
 12:14:32 24
 12:14:42 25 Can you tell the Commission what criminal enterprise you're
 12:14:44 26 talking about?---Well, you know, certainly from our point
 12:14:49 27 of view we thought Tony Mokbel, Carl Williams and others
 12:14:53 28 around that, one of their strengths over that period of
 12:15:01 29 time where the gangland wars, for want of a better word,
 12:15:05 30 erupted, was that they were able to keep themselves out of
 12:15:10 31 gaol and that was due in no large part, you know, to a
 12:15:15 32 large part I think by some of the activities of these
 12:15:18 33 lawyers that they seemed to retain. So yes, I guess that's
 12:15:21 34 what I'm referring to.
 12:15:23 35
 12:15:23 36 I follow. The fact that they were represented by lawyers
 12:15:27 37 in court proceedings enabled them to continue operating
 12:15:32 38 because they were, what, either acquitted of charges or
 12:15:36 39 proceedings were dismissed or what?---I don't want there to
 12:15:40 40 be any confusion. I believe they selected this small cadre
 12:15:45 41 of lawyers because they were willing to do things that
 12:15:48 42 other lawyers weren't prepared to do.
 12:15:50 43
 12:15:50 44 Yes?---So it wasn't just a matter of them acting as a
 12:15:53 45 barrister in the proper sense of the word, it was more than
 12:15:59 46 that.
 12:15:59 47

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12:16:01 1 Do you say that as far as you were concerned Ms Gobbo was
 12:16:04 2 one of those cadre of lawyers?---I would have put Ms Gobbo
 12:16:08 3 in that.
 12:16:09 4
 12:16:09 5 You would have?---I would have, yes, absolutely.
 12:16:12 6
 12:16:12 7 Until she started to speak to you?--Well, I must admit I
 12:16:16 8 was impressed with the way she acted in the best interests
 12:16:22 9 of [REDACTED], which was contradictory to the way I thought
 12:16:28 10 she perhaps would. I did, and she talks about it later,
 12:16:32 11 about thinking I was a, she thought that she was a stooge
 12:16:36 12 for Mokbel and Williams, I probably would agree with that,
 12:16:40 13 I probably did think that.
 12:16:41 14
 12:16:41 15 Indeed, you know she has claimed publicly that she was in
 12:16:47 16 effect acting - put it this way, she claims that [REDACTED]
 12:16:54 17 was the first part and the first notch on her belt, if you
 12:16:58 18 like, in terms of her assistance to police. You know she
 12:17:04 19 claims that, don't you?---I think there's a couple of
 12:17:07 20 different versions of that that I've read. There's one in
 12:17:10 21 a letter to Steve Fontana where she does state it in that
 12:17:14 22 type of fashion. And I've read somewhere, it might have
 12:17:17 23 been evidence to the Supreme Court, she talks about it
 12:17:21 24 being just acting for him and properly as a barrister.
 12:17:25 25
 12:17:26 26 Yes?---There's a couple of different versions I've read.
 12:17:29 27 I'm not sure which one she would say now.
 12:17:32 28
 12:17:33 29 But certainly insofar as at least on one view she regards -
 12:17:36 30 she should be congratulated by police and indeed paid by
 12:17:42 31 police, if you like, for rewards, for serving up [REDACTED],
 12:17:49 32 who then turns on [REDACTED], [REDACTED] and [REDACTED]?---No - - -
 12:17:54 33
 12:17:55 34 That's what she claims, do you understand that?---I don't
 12:17:58 35 think she's asking for rewards for doing that. I don't
 12:18:02 36 remember any version of it being based in that way.
 12:18:06 37
 12:18:06 38 Now, was there an operation in late 2003 called Operation
 12:18:19 39 Doca, disruption of criminal activity, which Purana was
 12:18:23 40 operating on?---I can't recall that operation name.
 12:18:28 41
 12:18:28 42 The idea was to create profiles of a significant number of
 12:18:32 43 people, 70 plus people I think we've heard, Mr Buick has
 12:18:37 44 said, and one of which in all probability was Ms Gobbo.
 12:18:42 45 Were you aware of that?---I don't know. I know our
 12:18:45 46 analysts, part of their work was creating profiles on
 12:18:49 47 people of interest so we had that information - - -

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12:18:50 1
12:18:51 2 Ms Gobbo was one of those people?--I don't know. I don't
12:18:54 3 know.
12:18:54 4
12:18:56 5 Can we have a look at this document, VPL.0100.0010.1743.
12:19:26 6 This is, I take it you've seen this document, this is
12:19:30 7 Operation Posse, operation assessment into the Mokbel
12:19:35 8 criminal cartel?---Look, I may have, I have no memory of
12:19:38 9 it. I had little to do with Operation Posse. That was
12:19:42 10 more an operation run by what I would refer to as Purana
12:19:48 11 phase 2.
12:19:50 12
12:19:52 13 Can we go to p.5 of this document. Bear in mind that Posse
12:19:59 14 was an operation which commenced, and this document
12:20:02 15 commenced well prior to Ms Gobbo's becoming a human source.
12:20:09 16
12:20:09 17 COMMISSIONER: It's Exhibit 314.
12:20:11 18
12:20:12 19 MR WINNEKE: Thanks Commissioner. What I suggest to you is
12:20:21 20 that this document was a document prepared by analysts for
12:20:28 21 the purposes of Purana and it was prepared earlier on in
12:20:37 22 2005, early 2005?---It was a 2005 date on the first page
12:20:43 23 you showed me.
12:20:44 24
12:20:47 25 What it says is that, "The purpose of the document is to
12:20:50 26 compile into one central location intelligence holdings on
12:20:53 27 Mokbel, his brothers and their associates. Also contained
12:20:57 28 at the end of the document will be recommendations and
12:21:01 29 strategies for dealing with the Mokbel cartel".
12:21:06 30 Right?---H'mm.
12:21:06 31
12:21:07 32 Now you accept that it was perceived that the gangland
12:21:13 33 murders were due to fights, if you like, between various
12:21:21 34 drug operators within Melbourne, do you accept that? That
12:21:25 35 was the view?---Look, you know, some of it, you know, phase
12:21:31 36 1 in the murders I worked on were predominantly around
12:21:37 37 personal revenge after the Moran shooting of Williams.
12:21:40 38
12:21:40 39 Yes?---They were all involved in the drug trade, yeah.
12:21:43 40
12:21:44 41 This was a document which was prepared and it's been
12:21:48 42 suggested that - I mean as well as that there are two arms
12:21:54 43 to Purana, is that right, there's the gangland arm and the
12:21:58 44 drug arm?---I think it's more correctly characterised by
12:22:03 45 saying phase 1 and phase 2.
12:22:06 46
12:22:06 47 Phase 1 and phase 2?---So during phase 1 we predominantly

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12:22:09 1 worked on the murders that were occurring so regularly back
 12:22:12 2 in those days, month by month. And then Jim O'Brien
 12:22:16 3 brought in Operation Posse, he took over Purana. I'd say
 12:22:20 4 that's phase 2 because that started - - -
 12:22:21 5
 12:22:22 6 This is commenced prior to Jim O'Brien. This is commenced
 12:22:24 7 in early 2005, this operation?---Operation Posse, as I
 12:22:29 8 understand it, was something that was brought up from the
 12:22:32 9 MDID. It was to cover all of this - - -
 12:22:36 10
 12:22:36 11 I'd suggest you're wrong about that?---I might be. As I
 12:22:39 12 said I didn't have much to do with the drugs, the pursuit
 12:22:41 13 of the drugs.
 12:22:42 14
 12:22:43 15 Yeah, all right. In any event you were aware that Purana
 12:22:47 16 was targeting the Mokbels and targeting the Mokbel's
 12:22:51 17 associates, you're aware of that much?---Certainly during
 12:22:55 18 the phase 2, yes, I was aware they were chasing Mokbel and
 12:22:59 19 his associates.
 12:23:00 20
 12:23:00 21 When did you first start? You started in 2003 at
 12:23:04 22 Purana?---Yeah, October 17, 2003.
 12:23:07 23
 12:23:07 24 What I'm suggesting to you is that Operation Posse
 12:23:12 25 commenced well prior to the MDID coming on board, it was
 12:23:16 26 something which had commenced in early 2005?---Can we just
 12:23:21 27 look at that first date on the front page? I thought it
 12:23:24 28 was September but you might be right. Just look down
 12:23:28 29 there. April 2005.
 12:23:30 30
 12:23:30 31 Yes?---So I don't, I don't know. I considered Operation
 12:23:37 32 Posse, always have considered it part of phase 2 rather
 12:23:40 33 than part of phase 1.
 12:23:41 34
 12:23:42 35 Righto. In any event what I'm suggesting to you is that
 12:23:46 36 your discussions with Ms Gobbo commencing immediately after
 12:23:51 37 the committal proceeding on 23 March of 2005 were utilised
 12:23:57 38 by Purana to pursue its activities in accordance with the
 12:24:03 39 plan which is set out here in Operation Posse?---In what
 12:24:06 40 way?
 12:24:07 41
 12:24:07 42 Well I'm going to come to it. But do you agree with it or
 12:24:10 43 not?---Not really.
 12:24:11 44
 12:24:11 45 You don't accept that proposition?---No. No, I don't think
 12:24:15 46 - you know, I had a look at barrister, I'm sorry, I've
 12:24:19 47 forgotten his code name, 1 or 2, I looked at how he was

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12:24:23 1 getting paid.
2
12:24:24 3 Yes?---And that was, you know, through the bookmakers and
12:24:27 4 the cash, et cetera. So that was one way I used the
12:24:30 5 information, but I don't really, and I think we had a look
12:24:33 6 at Solicitor 1 and her gambling with Tony Mokbel.
12:24:37 7
12:24:38 8 Solicitor 2 I think you're talking about?---Solicitor 2.
12:24:41 9 We did some activity that fell from the information but
12:24:44 10 really the information she provided to me was of no great
12:24:49 11 use.
12:24:50 12
12:24:50 13 It was of no use?---No great use.
12:24:53 14
12:24:54 15 If we can go to p.25 of this document. What we see is that
12:25:09 16 there's - this is conducted by an analyst. There's a
12:25:13 17 reference to the family, the Mokbel family, the structure
12:25:18 18 of the family and the associates of the family. Do you see
12:25:20 19 that there?---I see the heading, yes, and I see the names,
12:25:23 20 yes.
12:25:23 21
12:25:24 22 If we go down to p.34. What's set out is there's reference
12:25:33 23 to associates of the Mokbel family, do you see that?---Yes.
12:25:37 24
12:25:37 25 And that goes through to 44. Then if we go through that,
12:25:43 26 through to the bottom of p.45 there's references to
12:25:47 27 business associates. Accountants at the bottom of the
12:25:53 28 page, do you see that?---Yep.
12:25:54 29
12:25:55 30 And at the top of the page there's references to lawyers.
12:25:59 31 Go back up to 44?---Yes, legal representatives, yes.
12:26:05 32
12:26:06 33 Legal representatives. So that's all part of the analysis
12:26:09 34 by Purana as to Mr Mokbel and his associates, do you see
12:26:16 35 that?---I see that, yep.
12:26:18 36
12:26:18 37 If we then move down and we've got there obviously
12:26:25 38 Barrister 2, we've got Ms Gobbo, then we've got Solicitor 2
12:26:29 39 there, right?---Yep.
12:26:31 40
12:26:31 41 Then we've got accountants. If we move down the page, then
12:26:38 42 business enterprises, do you see that?---Yes.
12:26:40 43
12:26:41 44 And so on. So it's a fairly close analysis of how the
12:26:47 45 Mokbels do business, right?---Yeah.
12:26:50 46
12:26:50 47 Do you accept that?---I accept all the information that's

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12:26:54 1 written there.

12:26:55 2
12:26:55 3 Then if we go to p.63 of the document. You'll see there
12:27:05 4 that it says this, "In order to effectively close down the
12:27:09 5 operations of Mokbel, his family and associates, Posse was
12:27:13 6 commenced in late 2004", do you see that?---Yep.

12:27:16 7
12:27:16 8 "In fact it was commenced in late 2004 under the banner of
12:27:22 9 Operation Purana and this was used as a flag of convenience
12:27:25 10 and it was proposed that a distinct Task Force be
12:27:29 11 established utilising the expertise and experience gained
12:27:32 12 from both Purana and another operation called Lorcha,
12:27:38 13 right?---Yep.

12:27:39 14
12:27:41 15 Lorcha was obviously an investigation into Italian
12:27:45 16 organised crime and do you know who from Purana was
12:27:49 17 involved in Operation Posse at its inception?---I thought
12:27:53 18 this was Jim O'Brien's baby to be honest.

12:27:56 19
12:27:56 20 No, it wasn't because Mr O'Brien commenced later on?---I've
12:27:59 21 got a feeling that Posse and the pursuit of Mokbel started
12:28:03 22 in the MDID, as it reads there, Operation Posse was put
12:28:07 23 under the banner of Purana as a flag of convenience. I
12:28:10 24 always thought, this was my belief, that Posse and the
12:28:13 25 eventual pursuit of Mokbel was Jim O'Brien's target.

12:28:20 26
12:28:20 27 I think what seems to be the case is it actually took
12:28:24 28 flight and it started to operate in that guise after
12:28:30 29 Ms Gobbo came on board in the latter part of 2005. But it
12:28:35 30 was operating prior to that in different ways and I'm going
12:28:38 31 to suggest to you some of the ways in due course. Do you
12:28:41 32 accept that?---No, you know, my belief about Posse is it
12:28:45 33 came with Jim and it was an MDID and he pursued it under
12:28:52 34 his leadership.

12:28:53 35
12:28:53 36 This is a document which Purana has created and it's called
12:28:58 37 Operation Posse and it says it commenced in 2004. Do you
12:29:02 38 accept that?---Yeah.

12:29:03 39
12:29:03 40 It's in the document?---I think that flag of convenience is
12:29:06 41 interesting too.

12:29:07 42
12:29:07 43 It may well be. But then if you go to p.64, it talks about
12:29:17 44 ways in which it might gather information and you'll see
12:29:21 45 that it refers to cooperation between Operation Posse and
12:29:25 46 the Australian Crime Commission, do you see that?---I see
12:29:31 47 the Crime Commission mentioned there. Yep.

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12:29:36 1
 12:29:36 2 So the plan is that, the idea is there would be cooperation
 12:29:42 3 between Posse and the ACC Task Force Gordian in relation to
 12:29:46 4 financial dealings and money laundering by members of the
 12:29:49 5 cartel. Do you see that?---Yep.
 12:29:50 6
 12:29:51 7 And, "Part of the strategy for Operation Posse was to
 12:29:55 8 target assets, listed known companies and assets proposed,
 12:29:58 9 and it was proposed that the financial investigators and
 12:30:02 10 auditors and asset specialists would be brought in to
 12:30:03 11 assist". I think that's set out at p.66. We might move on
 12:30:10 12 so as Mr Bateson can see that. "Qualified investigators
 12:30:19 13 consisting of an financial investigator, an auditor and
 12:30:23 14 asset specialist would be required". That's the situation,
 12:30:26 15 the state of play in April 2005, if you accept that that's
 12:30:30 16 the date of the document, do you follow that?---I think
 12:30:34 17 it's the proposed, it's proposed. So I'm not sure that
 12:30:37 18 it's accepted at this point. So I think that's, not that I
 12:30:43 19 know when it was or when it started, but what I can say
 12:30:47 20 from that is it seems to be what they're suggesting they
 12:30:51 21 need rather than what's starting or commencing that date.
 12:30:55 22 Sometimes as investigators you put up, say, "I need to run
 12:30:58 23 a Task Force and I need all these things."
 24
 12:31:00 25 Yes?---And then it never comes to fruition at that time.
 12:31:03 26
 12:31:03 27 At that time?---Or for some time later, or sometimes if
 12:31:08 28 you're lucky you get everything you ask for.
 12:31:10 29
 12:31:11 30 What I'm going to suggest in due course, in fact very
 12:31:14 31 shortly, is that this operation commenced and kicked off
 12:31:16 32 and you were providing information to it that Ms Gobbo was
 12:31:19 33 providing to you?---I don't know if I was providing it to
 12:31:22 34 this operation, but I would like to think I passed on
 12:31:27 35 information that I got out of those meetings.
 12:31:30 36
 12:31:31 37 And it was used, I suggest it was then used?---I don't
 12:31:34 38 know.
 12:31:34 39
 12:31:34 40 You don't know?---I don't know. Once you put intel in I
 12:31:38 41 guess it's possible it can be used, yep.
 12:31:40 42
 12:31:41 43 Perhaps if we go up to p.45 of the document. Have you got
 12:31:51 44 45 there? You'll see here that there's, against Ms Gobbo's
 12:32:07 45 name there's an indication that she would be appearing with
 12:32:11 46 Mr Mokbel [REDACTED], that is [REDACTED] on [REDACTED]
 12:32:16 47 [REDACTED], "However due to other factors she was not able to

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12:32:21 1 attend and the brief was passed on to Mr Heliotis". Do you
 12:32:25 2 see that?---Yes.
 12:32:26 3
 12:32:26 4 Then she appeared with him at committal proceedings
 12:32:28 5 regarding charges brought by the Drug Squad as a result of
 12:32:32 6 Operation Kayak?---Yes.
 12:32:34 7
 12:32:35 8 And she also admitted to investigators that she was facing
 12:32:40 9 financial difficulties due to some of her more high profile
 12:32:45 10 clients not paying their bills. Do you know where that
 12:32:49 11 information came from?---No, I don't have a memory of it.
 12:32:54 12
 12:32:54 13 Yes?---No.
 12:32:56 14
 12:32:57 15 Do you think that that was provided to you?---It wouldn't
 12:33:04 16 have surprised me but I don't have a memory of it.
 12:33:07 17
 12:33:08 18 Yes?---We were talking about bills and payments so it's
 12:33:13 19 possible.
 12:33:13 20
 12:33:15 21 Now - - - ?---This is prepared in April, isn't it?
 12:33:19 22
 12:33:19 23 Yes, it is?---So I don't think I've met with her by that
 12:33:23 24 stage, have I?
 12:33:24 25
 12:33:24 26 You'd had discussions with her on 23 March and she was
 12:33:27 27 interested?---There you go.
 12:33:29 28
 12:33:29 29 You were interested in her comment about lawyers as you
 12:33:32 30 viewed them as part of the criminal enterprise that Purana
 12:33:35 31 was working to breakdown. What criminal enterprise are you
 12:33:39 32 talking about there? That's Mokbel, Williams and others,
 12:33:42 33 right?---Yeah, yeah.
 12:33:43 34
 12:33:44 35 Now, there was an issue about Mr Heliotis attending at [REDACTED]
 12:33:50 36 [REDACTED] but there was argument over him having a conflict of
 12:33:53 37 interest because he was representing Carl Williams at the
 12:33:55 38 time. Were you aware of that?---No.
 12:33:57 39
 12:33:58 40 And he was, it was refused. He was refused permission to
 12:34:05 41 continue acting. If we go back to p.44. Do you see that?
 12:34:14 42 An alternative representation was arranged and that was
 12:34:17 43 Mr Forrest?---Yep.
 12:34:19 44
 12:34:20 45 Do you see that?---Yes.
 12:34:25 46
 12:34:26 47 Because he had a conflict he couldn't appear and

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12:34:29 1 alternative representation was arranged, is that your
 12:34:33 2 understanding?---Look, they may well have put that there,
 12:34:36 3 I'm sure that's what they said, but I would imagine looking
 12:34:40 4 at that [REDACTED]
 12:34:43 5 [REDACTED]
 12:34:46 6
 12:34:46 7 Is that right?---That's what I would have thought.
 12:34:48 8
 12:34:48 9 All right. The fact that Ms Gobbo, just to come back to
 12:35:01 10 the claims that she made to investigators that she was
 12:35:04 11 facing financial difficulties because some of her more high
 12:35:09 12 profile clients weren't paying their bill would have been
 12:35:12 13 something that would have piqued the interest of
 12:35:16 14 investigators I assume?---I don't know. I'm not sure if
 12:35:22 15 it's significant or not. At that stage I was interested in
 12:35:25 16 how they were getting paid, not that they weren't.
 12:35:28 17
 12:35:29 18 She'd made a comment to you early on that it's difficult to
 12:35:33 19 get paid if a solicitor doesn't have a trust account,
 12:35:35 20 that's something she told you?---Yeah, that was a direct
 12:35:40 21 reference to Solicitor 2, wasn't it?
 12:35:42 22
 12:35:43 23 I think it was. What that suggests is that Ms Gobbo is
 12:35:46 24 inclined to come forward and start assisting
 12:35:57 25 police?---Yeah, on one view, I guess.
 12:35:58 26
 12:35:58 27 You were the person who at that stage she chose to start
 12:36:02 28 speaking to?---On 23 March, yes.
 12:36:05 29
 12:36:10 30 If we go down to p.66 again about halfway down the page.
 12:36:23 31 It says this, "It's further suggested that a legal officer
 12:36:26 32 be attached to the Task Force to respond to matters that
 12:36:30 33 require professional advice. This person will also be the
 12:36:34 34 liaison point between the Task Force and the OPP and would
 12:36:41 35 be able to provide briefings to legal counsel as and when
 12:36:46 36 required. Similarly this person would form part of the
 12:36:48 37 support cell". Do you see that?---Yep.
 12:36:51 38
 12:36:51 39 Now, do you know whether that did occur?---No, I don't. I
 12:36:58 40 don't know that we - certainly in the phase 1, it might
 12:37:02 41 have happened with the people working on phase 2.
 12:37:06 42
 12:37:06 43 Yes?---But certainly from our point of view I don't
 12:37:10 44 remember any go-between between us, Gavan Ryan, et cetera,
 12:37:15 45 and the OPP. I don't remember a liaison officer and yeah,
 12:37:22 46 I can't remember a lawyer being in - - -
 12:37:27 47

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12:37:28 1 In bed if you like with Purana. Are you sure about
 12:37:31 2 that?---Maybe there was in phase 2. I'm just thinking I
 12:37:34 3 know there was an accountant Bernie Duggan.
 12:37:37 4
 12:37:37 5 Yeah?---If you've got a name can you - - -
 12:37:40 6
 12:37:40 7 I'm asking you, Mr Bateson?---I don't think there was.
 12:37:44 8
 12:37:44 9 You're in the witness box and I'm asking the
 12:37:47 10 questions?---Sorry, I'm trying to remember as best I can.
 12:37:50 11
 12:37:50 12 If you don't know, you don't know?---I don't know, yeah. I
 12:37:53 13 have an image of this guy with a beard but I'm not sure
 12:37:56 14 whether he was a - - -
 12:37:57 15
 12:37:57 16 You think that person might be a lawyer?---Yeah, I think so
 12:38:01 17 but I think he came during the phase 2 part. Anyway, I'm
 12:38:06 18 not sure.
 12:38:07 19
 12:38:07 20 Who would he have dealt with, who were the members of
 12:38:11 21 Purana that that person would have dealt with?---Phase 2
 12:38:13 22 was definitely reporting all through Jim O'Brien, although
 12:38:18 23 Gavan Ryan may have filled in when Jim wasn't there. The
 12:38:22 24 strategic decisions for phase 2, what I would probably term
 12:38:24 25 the pursuit of the Mokbel cartel, was driven and led by Jim
 12:38:30 26 O'Brien.
 12:38:31 27
 12:38:31 28 It may well be there wasn't. But in any event that was the
 12:38:34 29 plan. You have a vague recollection but we haven't
 12:38:37 30 uncovered any evidence to this time that there in fact was.
 12:38:42 31 You're suggesting there might have been?---I just - the way
 12:38:47 32 you put the question I thought you knew but I've just got a
 12:38:53 33 memory. His name is on the tip of my tongue and I just
 12:38:56 34 can't for the life of me recall it.
 12:38:58 35
 12:38:59 36 All right, if it does - - - ?---I'll let you know.
 12:39:04 37
 12:39:05 38 Let us know. Then if I can just pursue this line, what
 12:39:11 39 happens is on 10 May, and this is based on your chronology
 12:39:16 40 that you've put together, it appears that Solicitor 2 was
 12:39:22 41 arrested by Michelle Kerley. You're aware of that? This
 12:39:30 42 is 10 May 2005?---Yes.
 12:39:32 43
 12:39:33 44 She was arrested upon allegations of firearms offences and
 12:39:42 45 also giving false evidence in a hearing at the ACC, do you
 12:39:46 46 understand that?---I accept that. I knew it was about a
 12:39:50 47 gun, I wasn't sure about the ACC stuff but I accept that's

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12:39:54 1 true.

12:39:54 2

12:39:54 3 Subsequently those charges were dropped ultimately, lying

12:39:59 4 to the ACC and the gun charges, are you aware of

12:40:02 5 that?---No, I don't think I am.

12:40:03 6

12:40:04 7 You accept that?---She's still practising, so.

12:40:06 8

12:40:09 9 After she was arrested Ms Gobbo, who was at that stage

12:40:18 10 starting to provide intelligence about her to you, turned

12:40:22 11 up when she needed a lawyer because she was called upon to

12:40:27 12 do so, you understand that?---Yes.

12:40:28 13

12:40:30 14 Were you aware of that at the time?---I don't know.

12:40:33 15

12:40:33 16 You would have been, wouldn't you? Ms Kerley was working

12:40:37 17 in your team under you?---Yeah, but I think she went and -

12:40:42 18 she went because she was female and the suspect was female.

12:40:45 19

12:40:46 20 It may well be?---I know that wasn't one of my

12:40:49 21 investigations but, look, I don't know that I knew it, but

12:40:55 22 it wouldn't have surprised me.

12:40:57 23

12:40:58 24 Obviously you were, I mean from what you've said, from what

12:41:04 25 we've gleaned from what you've said, you were particularly

12:41:07 26 interested in bringing Solicitor 2 to book as far as you

12:41:11 27 were concerned, you believed she was part of a criminal

12:41:14 28 enterprise?---I would have and we did pursue some lines of

12:41:17 29 inquiry. I must admit I was probably more interested in

12:41:23 30 what Barrister 1 or 2 - - -

12:41:26 31

12:41:26 32 Barrister 1 was doing?---Was doing.

12:41:29 33

12:41:30 34 In any event it's likely I suggest that you would have at

12:41:33 35 least been aware that Ms Gobbo had turned up to advise

12:41:39 36 Solicitor 2 when she had been charged or arrested?---I

12:41:42 37 don't know if it's likely. As I said, you know, that small

12:41:48 38 cadre it wouldn't have surprised me, and I'm not sure that

12:41:52 39 anyone would have taken the time to say to me, "Do you know

12:41:55 40 who's representative this is because this is an

12:41:58 41 extraordinary event?"

12:41:59 42

12:41:59 43 Given the fact that - what would have been surprising had

12:42:01 44 you been told is that Ms Gobbo's providing information

12:42:06 45 about her, then turns up and advises her after she's

12:42:09 46 arrested her. That would be surprising if you'd found out

12:42:13 47 about that?---Not to me. I mean when she started talking

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12:42:17 1 about Solicitor 2 it was clear that they had a personal and
 12:42:21 2 professional relationship, as colleagues and perhaps
 12:42:24 3 socialising and friends together, and I always formed the
 12:42:28 4 view that the information she was providing me about
 12:42:32 5 Solicitor 2 came from casual conversations I expect either
 12:42:38 6 around the courts, their chambers or indeed over a glass of
 12:42:42 7 wine. And I think you put it to me last time whether there
 12:42:46 8 was a personal and professional rivalry, I suspect there
 12:42:50 9 was.
 12:42:50 10
 12:42:51 11 Perhaps to be fair the initial comments, I suppose, might
 12:42:56 12 be described as unflattering comments but then what occurs,
 12:43:03 13 to you on 23 April, sorry, 23 March when she first rings
 12:43:09 14 you up, just so I don't mislead you, what she says to you
 12:43:14 15 as I understand it, that Solicitor 2 had been badmouthing
 12:43:26 16 her to Williams et al., and effectively none of the
 12:43:35 17 barristers could be trusted, et cetera. Now, then what
 12:43:40 18 happens is - by the way, did you tell anyone about that
 12:43:48 19 communication that you had with Ms Gobbo on 23 March?---I
 12:43:54 20 usually made a note of it when I briefed Gavan Ryan.
 21
 12:43:58 22 Yes?---Look, I'm sure I would have briefed Gavan. If I
 12:44:03 23 haven't, I'd have to - do you want me to look at my notes?
 12:44:06 24
 12:44:07 25 There's no particular note of it although it does appear
 12:44:10 26 that Gavan Ryan has signed the diary, so it may well be
 12:44:12 27 that he's seen it and you probably discussed it with him I
 12:44:16 28 assume?---I would have discussed it with Gavan.
 12:44:18 29
 12:44:18 30 You would have?---Yeah, yeah.
 12:44:20 31
 12:44:20 32 Would you have discussed it with any other members of your
 12:44:23 33 crew?---Quite possibly.
 12:44:24 34
 12:44:24 35 Do you know who?---No, I don't but I don't necessarily
 12:44:32 36 remember having any secrets particularly from my crew
 12:44:36 37 around that time. I know when she eventually became
 12:44:41 38 registered I wasn't sure who knew what, but certainly I
 12:44:45 39 trusted my crew implicitly so I don't remember - - -
 12:44:50 40
 12:44:50 41 You wouldn't have held anything back from them?---Unless I
 12:44:55 42 just forgot to tell them or didn't see them when it
 12:44:58 43 occurred to me, I don't know.
 12:45:00 44
 12:45:00 45 If we look at this entry on 15 May 2005, a Purana update.
 12:45:06 46 VPL.0100.0012.0141. This document, and we'll go through a
 12:45:24 47 few of these, this is an Operation Purana, sort of an

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12:45:28 1 update, is that right?---It appears to be. I'm not sure
 12:45:31 2 that I've ever seen that before, but.
 12:45:37 3
 12:45:39 4 It seems that it's been prepared by an Acting Sergeant
 12:45:42 5 Steve Spargo and these reports go to the Commander or the
 12:45:47 6 steering committee, do they, of Operation Purana?---It says
 12:45:50 7 to the Commander State Crime Squads.
 12:45:52 8
 12:45:53 9 Who would that be?---Do you know what, I don't remember
 12:45:56 10 there being a Commander of State Crime Squads. Was that
 12:45:59 11 Terry Purton's job, was it? I'm not sure.
 12:46:01 12
 12:46:02 13 You think it's more than likely to be Purton?---Maybe. I
 12:46:07 14 actually don't remember us having a Commander.
 12:46:10 15
 12:46:12 16 In any event what we see there is Solicitor 2 had been
 12:46:16 17 charged, so clearly Purana's got an interest in this.
 12:46:19 18 She's been charged with firearms offences and giving false
 12:46:22 19 evidence at the ACC hearings. See that?---Yeah, I think
 12:46:26 20 all of those things there I'm willing to accept were just
 12:46:28 21 updates on the activity.
 12:46:31 22
 23 Of the various - - - ?---Yep.
 24
 12:46:32 25 Yeah, okay. Then there's, what happens is on 19 May - just
 12:46:40 26 excuse me. If we go down, about the 8th arrow down there's
 12:46:55 27 a draft assessment of Operation Posse which has been
 12:47:00 28 submitted for consideration, do you see that?---Yeah, that
 12:47:03 29 seems consistent with the date of the other document you
 12:47:06 30 showed me.
 12:47:07 31
 12:47:07 32 All right. That's something that's been submitted. One
 12:47:10 33 assumes it's been prepared by I think Mr Spargo and the
 12:47:14 34 analyst team and it's been submitted to the command team of
 12:47:18 35 Operation Purana, right?---The Commander of State Crime
 12:47:23 36 Squads, yes.
 12:47:23 37
 12:47:23 38 If we assume that's Mr Purton we might be right about that
 12:47:28 39 or we might not be?---Yep.
 12:47:30 40
 12:47:32 41 We're probably right, okay. Then on 19 May you get a call
 12:47:35 42 from Ms Gobbo, right?---Yep.
 12:47:43 43
 12:47:44 44 And she stated that she wants to speak to you about a
 12:47:48 45 confidential matter?---Yes.
 12:47:50 46
 12:47:50 47 And you agreed to meet with her the following

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12:47:54 1 afternoon?---Yep.

12:47:56 2

12:47:56 3 And she makes a sort of a parting comment about Solicitor 2

12:48:02 4 and the effect - this is what I put to you before, "It's

12:48:05 5 hard to get paid by someone who doesn't have a trust

12:48:08 6 account". That was obviously something that sort of piqued

12:48:12 7 your interest and you advised DDI Ryan about that?---Oh

12:48:16 8 look, I would have advised him that she made contact and I

12:48:20 9 was planning on meeting her. I made a note of that parting

12:48:24 10 comment, but yeah, I just - - -

12:48:25 11

12:48:25 12 It may not mean anything much. You go and meet her to see

12:48:30 13 what it's all about?---Yep.

12:48:32 14

12:48:32 15 So you do. You returned her call and there's an agreement

12:48:36 16 to meet the following day and you meet her on Sunday the

12:48:41 17 22nd?---23rd, is it?

12:48:43 18

12:48:43 19 22nd I think you receive a call from her, approximately

12:48:47 20 6 pm, apologise for not meeting yesterday. She was

12:48:50 21 concerned regarding her safety if Mr Hatt is cross-examined

12:48:54 22 regarding the statement taking process and stated that has

12:49:01 23 been, you said look that's been ruled upon by the chief

12:49:05 24 magistrate, we've been through this ad nauseam this

12:49:08 25 morning?---Yep.

12:49:09 26

12:49:09 27 She's again expressing the real concern that if that gets

12:49:12 28 out she's in trouble?---Yep. That's I guess another, if I

12:49:17 29 can just interrupt for a second.

30

12:49:19 31 Yeah?---I guess that's just another indication of what I

12:49:23 32 believe to be now, that that Chief Magistrate was aware of

12:49:25 33 those issues.

12:49:26 34

12:49:27 35 He may or may not have been, Mr Bateson?---I know you might

12:49:32 36 not agree with that, yep. Maybe I'm grasping at straws.

12:49:32 37

12:49:33 38 Then she also had information regarding Solicitor 2 that

12:49:40 39 she wanted to pass on and she, you said that you'd contact

12:49:45 40 her tomorrow?---Yes.

12:49:46 41

12:49:48 42 Then you tell Gavan Ryan about that?---H'mm.

12:49:50 43

12:49:50 44 And then you meet her at the [REDACTED] in South

12:49:55 45 Melbourne?---Yep.

12:49:55 46

12:49:56 47 On the 23rd, right, and you speak to her for about an hour.

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12:50:05 1 She told you about the Barrister 1 still being owed money
 12:50:09 2 but he's likely to be paid this week or next. She reported
 12:50:14 3 that Solicitor 2 was doing a lot of legal work for free and
 12:50:20 4 was no doubt providing a message service between Williams
 12:50:23 5 and those on the outside, including Mokbel who had been
 12:50:26 6 attending her office to speak using an LPP call, right?
 12:50:34 7 That's what she told you?---Yes.
 12:50:36 8
 12:50:37 9 Were you aware that a similar allegation had been made
 12:50:39 10 about Ms Gobbo the previous year in the latter part of
 12:50:44 11 2003, were you aware of that?---I don't recall that.
 12:50:47 12
 12:50:49 13 Yes?---I don't remember it.
 12:50:50 14
 12:50:51 15 All right. And she reported that Solicitor 2 wasn't using
 12:50:57 16 a trust account and that was contrary to the *Legal Practice*
 12:51:02 17 *Act*, right?---Yep.
 12:51:03 18
 12:51:03 19 On 1 July 2005 we find out from your chronology and from
 12:51:08 20 the notes of Mr L'Estrange that he was inquiring into
 12:51:12 21 potential money laundering offences by Solicitor 2 and his
 12:51:18 22 diary refers to intelligence and photographs of Solicitor 2
 12:51:22 23 with Tony Mokbel relating to interstate casinos, do you
 12:51:27 24 accept that?---Yeah, I think you missed the meeting of 29
 12:51:31 25 June where - - -
 12:51:32 26
 12:51:33 27 We haven't got there yet?---Sorry, I thought you were at 1
 12:51:36 28 July.
 12:51:36 29
 12:51:37 30 If I said 1 July I meant 1 June?---You might have, sorry.
 12:51:41 31
 12:51:41 32 No, I think I did, I misled you, you're quite right. 1
 12:51:47 33 June that was. Then on 4 June 2005 you meet with Ms Gobbo
 12:51:52 34 again?---Yep.
 12:51:53 35
 12:51:56 36 Again in South Melbourne and again for around an hour, is
 12:52:00 37 that right?---Yes.
 12:52:02 38
 12:52:05 39 And she provided further information relating to Solicitor
 12:52:10 40 2 involving tax issues and gambling and there was a
 12:52:15 41 reference to her living in a building owned by Mokbel and
 12:52:21 42 buying a Porsche, et cetera, do you see that?---Yes.
 12:52:23 43
 12:52:24 44 If I can then go to a Purana update, 6 June 2005. She also
 12:52:33 45 said that not enough attention was being paid to Mokbel's
 12:52:36 46 restrained assets and that they were, when they were sold
 12:52:39 47 there was always a cash component that was not declared and

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12:52:42 1 that was reported to Gavan Ryan, right? Now you accept
12:52:48 2 that this information is reported on to Ryan and in all
12:52:51 3 probability it's on reported and it's part of the
12:52:56 4 information that Purana takes into consideration?---I would
12:53:00 5 accept that.

12:53:01 6
7 And works on?---Yep.

8
12:53:02 9 Okay. If we go to the fifth arrow there in this update on
12:53:08 10 6 June. We see that inquiries regarding the financial
12:53:13 11 affairs of Solicitor 2 continue with investigations of
12:53:17 12 money laundering being explored and then there's a
12:53:21 13 reference at the bottom, and this is obviously the week
12:53:25 14 ending 5 June, "Defence barrister Nicola Gobbo attempted to
12:53:28 15 make contact with Operation Purana members offering
12:53:31 16 information and her motives for this are yet to be
12:53:36 17 established". Now firstly, in relation to Solicitor 2 it
12:53:41 18 appears that the information that's being provided about
12:53:44 19 her is being investigated?---Yeah. I think that's, that's
12:53:49 20 a fair assessment or it's been included, I'm not sure it
12:53:53 21 commenced the investigation, but I have no doubt it was,
12:53:57 22 formed part of it.

12:53:57 23
12:53:58 24 Right. And there's a reference clearly to Ms Gobbo
12:54:03 25 attempting to make contact. Now by this stage you've made
12:54:07 26 contact with her and you've met her on a couple of
12:54:10 27 occasions?---Yeah.

12:54:11 28
12:54:12 29 Not clear about that reference. It would either be a
12:54:16 30 reference to the fact that she had on an earlier occasion
12:54:20 31 attempted to speak to you and then since you'd spoken to
12:54:24 32 her, do you accept that?---I think, can we just go back up
12:54:29 33 to the top.

12:54:29 34
12:54:30 35 Week ending Sunday 5 June?---No, no, who it is addressed
12:54:33 36 to.

12:54:33 37
12:54:34 38 Monday 6 June?---This is a Steve Spargo update.

12:54:39 39
12:54:40 40 Yes?---As I remember it, and I may be wrong about this, but
12:54:44 41 this is something that Gavan Ryan would use as talking
12:54:47 42 points for any meetings with others.

12:54:49 43
12:54:50 44 Right. Spargo would provide this to Gavan Ryan and he
12:54:53 45 would use that when he spoke to people up the line?---Yeah,
12:54:56 46 I think that's what it might be. Whether Steve knew I'd
12:55:01 47 met with her or not, I can't imagine that anyone else was

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12:55:05 1 meeting her and I didn't know about it.

12:55:07 2

12:55:08 3 It's probably you that it's referring to?---Yep.

12:55:12 4

12:55:13 5 There's no suggestion, at least it doesn't seem to be the

12:55:15 6 case that she's meeting with anyone else but you in this

12:55:20 7 period of time?---I feel certain I'd know if she was

12:55:26 8 meeting with others.

12:55:26 9

12:55:27 10 I take it that you felt that you had a degree of trust with

12:55:29 11 her obviously because she's communicating with you and the

12:55:31 12 likelihood is that you felt the relationship was good

12:55:34 13 enough for her to be saying to you, "I'm also speaking to

12:55:38 14 someone else"?---No, I think they would have told me.

15

12:55:42 16 They would have told you?---Yeah, I'm not sure that she

12:55:44 17 would have told me, I'm not confident in that. But I'm

12:55:46 18 certain, you know, as I did reporting it up to Gavan Ryan,

12:55:49 19 I'm sure that others within Purana would have done the

12:55:52 20 same.

12:55:53 21

12:55:53 22 All right?---So yeah, I'm not certain she would have told

12:55:57 23 me but I'm certain I would have known.

12:56:00 24

12:56:00 25 All right. Then we've got on the same day, on 6 June 2005,

12:56:09 26 Mr Purton has a diary entry. If we can put this document

12:56:15 27 up, it's 0005.0067.0005. If we can perhaps put it up

12:56:23 28 beside this document if that's possible. What you'll see

12:57:01 29 there against the entry - if we go down a couple of pages -

12:57:07 30 it's the next page. Right. Have a look at the entry at

12:57:14 31 12, I think it's 12.30. You'll see about the fifth line

12:57:22 32 down - yeah, in fact if you look at the topics in all of

12:57:32 33 them. Let's just highlight all of them, if we can do that.

12:57:37 34 It's a Task Force Purana progress meeting and present is,

12:57:43 35 it seems SO so we assume that's Simon Overland and

12:57:51 36 Mr Swindells and there's a reference to the [REDACTED] trial

12:57:55 37 nearing completion and then there's a mention of [REDACTED] and

12:57:58 38 [REDACTED] and probably [REDACTED] and [REDACTED] "Nothing until mid-September.

12:58:06 39 Prosecution [REDACTED] trial". And then do you see those -

12:58:15 40 if you have a look at the top entries there's, "The trial

12:58:18 41 of [REDACTED] continued with further defence witnesses" and then

12:58:20 42 Operation Evoke. That's Musso and Chimirri, do you see

12:58:31 43 that?---Yes.

12:58:31 44

12:58:32 45 There seems to be a reference to that in Mr Purton's diary

12:58:36 46 as well. Then if we go further - there appears to be, at

12:58:46 47 least some of the information in Mr Purton's diary finds

12:58:50 1 its way into that document there. There's a general
 12:58:54 2 correspondence and issues. If you go further down you'll
 12:59:02 3 see at the bottom - there's a reference to [REDACTED], do
 12:59:25 4 you see that, ACC crew?---Yes.
 12:59:28 5
 12:59:29 6 Solicitor 2, money laundering, Jupiters Casino in Brisbane
 12:59:38 7 and an extra territorial warrant 50,000 times two, do you
 12:59:44 8 see that?---Yes, I do.
 12:59:44 9
 12:59:45 10 There's also references there to, "In the corresponding
 12:59:52 11 entry inquiries regarding the financial affairs of
 12:59:55 12 Solicitor 2 continued with investigators, money laundering
 12:59:57 13 offences being explored". Then there's references to
 13:00:00 14 Williams and Collins and then down the bottom the entry or
 13:00:05 15 the reference to, "Defence barrister Nicola Gobbo attempted
 13:00:08 16 to make contact with Operation Purana". Do you see
 13:00:13 17 that?---Yep.
 13:00:13 18
 13:00:14 19 So it would seem to be the case that that - that
 13:00:20 20 information may well have been the subject of the Task
 13:00:25 21 Force Purana progress meeting at which Mr Overland and
 13:00:31 22 Swindells are present on that day, do you accept
 13:00:36 23 that?---Look, I don't, I don't dispute it. My memory of
 13:00:41 24 those types of documents, that's what they were used for.
 13:00:44 25
 13:00:45 26 Yes, all right. I tender that diary note.
 13:00:51 27
 13:00:52 28 COMMISSIONER: The diary note?
 13:00:54 29
 13:00:54 30 MR WINNEKE: It might have been tendered already.
 13:00:56 31 Commissioner, what I'll do, I'll tender all of these Purana
 13:00:59 32 updates, I can do it as a block when I get to the end of it
 13:01:03 33 if that's okay.
 13:01:03 34
 13:01:03 35 COMMISSIONER: Yes. So Mr Purton's diaries have been
 13:01:08 36 tendered in a block as Exhibit 109.
 13:01:13 37
 13:01:14 38 MR WINNEKE: Commissioner, Ms Tittensor suggests that the
 13:01:18 39 entry which has been tendered may be a redacted entry. In
 13:01:22 40 any event we'll have a look at that and make sure that if
 13:01:25 41 it's a redacted entry perhaps we'll put this entry in, in
 13:01:29 42 its place or as a - all right.
 43
 13:01:34 44 Now, on 7 June, the following day, you receive a call
 13:01:38 45 from Ms Gobbo and she's concerned about a vehicle outside
 13:01:43 46 her house, it's been there for a couple of hours and you
 13:01:46 47 arrange a check and there's no nefarious concerns about

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13:01:53 1 that?---Correct.

13:01:54 2

13:01:58 3 Next thing is there's another update on 13 June, Purana

13:02:03 4 update. And I'll go through these reasonably quickly, but

13:02:08 5 at the fourth arrow, this is 13 June, that the

13:02:11 6 investigations into Solicitor 2 are ongoing. They're being

13:02:18 7 explored and it's now got an operation name and it's called

13:02:21 8 Operation Pedal, do you see that?---Yes.

13:02:24 9

13:02:25 10 Then if we go to 20 June we'll see at about the fourth

13:02:31 11 arrow there, we see the same thing, that the inquiries are

13:02:34 12 continuing. And then on the same day, on 20 June, and

13:02:44 13 you'll see at point 5 down the bottom there, week

13:02:51 14 commencing 20 June, "Solicitor 1, Pedal", do you see

13:02:58 15 that?---Yes.

13:02:59 16

13:02:59 17 Solicitor 2 I should say. On 20 June in, I think, in your

13:03:08 18 chronology, and it may well be - just excuse me - in your

13:03:20 19 diary as well on that day, there's a meeting that you and

13:03:26 20 Ryan have with a person from the ACC. Do you agree with

13:03:31 21 that?---Look I'm just looking at my chronology, I haven't

13:03:35 22 made the note that I'm with Ryan.

13:03:37 23

13:03:38 24 Have a look in your diary for 20 June 2005?---Diary, was

13:03:48 25 it? Yes, it was diary.

13:03:53 26

13:03:53 27 Your diary, yeah?---Yeah, Ryan and Wilson, yeah, and that's

13:04:11 28 what we, I think is referred to in this previous entry as

13:04:20 29 the ACC crew, so that's [REDACTED].

13:04:24 30

13:04:24 31 That's right. Are they investigators, are they?---[REDACTED]

13:04:28 32 [REDACTED] are. [REDACTED] are from the ACC.

13:04:33 33

13:04:33 34 Yeah, I think we might - yeah, I think we've done

13:04:34 35 it?---That's what I wasn't meant to say, is it? Sorry.

13:04:36 36

13:04:36 37 MS MARTIN: Commissioner, to the extent that there's any

13:04:38 38 reference to any ACC personnel I'd ask that that be subject

13:04:42 39 to a non-publication order.

13:04:44 40

13:04:44 41 COMMISSIONER: Yes, all right then.

13:04:45 42

13:04:45 43 WITNESS: Sorry, I didn't know I wasn't meant to do that.

13:04:49 44

13:04:49 45 MR WINNEKE: No, look, I should have - - -

13:04:49 46

13:04:49 47 COMMISSIONER: It might be better if I make a

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13:04:51 1 non-publication order and then you can mention the names in
13:04:55 2 here but it just won't be published if need be. That's
13:04:58 3 probably the best way to go.

13:04:59 4
13:05:00 5 MR WINNEKE: I'm content with that as long as the ACC is
13:05:04 6 content with that.

13:05:04 7
13:05:05 8 MS MARTIN: I expect that in respect of the naming of these
13:05:08 9 personnel that my client would actually expect that there
13:05:10 10 is no reference to them whatsoever, and in respect of what
13:05:12 11 has just been mentioned, that there's a non-publication
13:05:17 12 order.

13:05:17 13
13:05:17 14 COMMISSIONER: All right then. I think it's at 9635, line
13:05:35 15 43, take out the names after ACC and again at line 45, take
13:05:41 16 out the names in the answer. And there's a - those names
13:05:51 17 will be removed and there's a non-publication order in
13:05:56 18 respect of those names and we'll just be careful not to
13:06:00 19 mention any names of ACC people.

13:06:02 20
13:06:03 21 MR WINNEKE: Yes.

13:06:03 22
13:06:03 23 COMMISSIONER: Yes, all right.

13:06:04 24
13:06:05 25 MR WINNEKE: If I can just ask you about this. The
13:06:08 26 chronology which you've helpfully prepared, Mr Bateson,
13:06:12 27 refers to an entry on 1 June 2005 based on Nigel
13:06:21 28 L'Estrange's notes, "Briefed by Detective Sergeant Wilson
13:06:26 29 re potential money laundering offences committed by
13:06:29 30 Solicitor 2. Made inquiries with Star City and Jupiters
13:06:30 31 Queensland. Jupiters have intel and photos of Solicitor 1
13:06:35 32 in attendance with Tony Mokbel. Solicitor 1 cashing out
13:06:40 33 for Mokbel using her ID. Then she attends with Mokbel a
13:06:45 34 bit". That's 1 June and that appears to be consistent with
13:06:48 35 the entries which have found their way into the Purana
13:06:52 36 updates?---Yes.

13:06:53 37
13:06:54 38 Do you accept, is it the case that Mr L'Estrange was in
13:06:57 39 charge of - heading this crew that was conducting this
13:07:01 40 investigator is that your crew?---Nigel was on my crew.

13:07:04 41
13:07:04 42 Your crew?---Detective Sergeant Wilson was in charge of
13:07:08 43 that crew.

13:07:09 44
13:07:09 45 Yes?---And I've got - seeing this note here in June reminds
13:07:14 46 me that Geoff Wilson was in charge of that crew. He'd come
13:07:17 47 in from the Fraud Squad so he oversaw a lot of that type of

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13:07:24 1 work.
13:07:24 2
13:07:24 3 That sort of stuff?---Yep.
13:07:26 4
13:07:27 5 And Mr L'Estrange was involved in that particular
13:07:30 6 operation?---Yeah, I think he was helping out. I remember
13:07:34 7 quite clearly the videos and photos of Solicitor 1 taking
13:07:40 8 large amounts of chips off.
13:07:43 9
13:07:44 10 2 I think?---2, off Tony Mokbel and then going and cashing
13:07:48 11 them.
12
13:07:49 13 Right?---I'm not sure where that came from initially. I
13:07:53 14 think the information from Ms Gobbo no doubt supported it
13:07:57 15 but I've got a feeling it came from somewhere else
13:08:01 16 initially.
13:08:01 17
13:08:02 18 All right. In any event similar information is referred to
13:08:06 19 on 16 June 2005 in your chronology. I don't think we need
13:08:11 20 to put it up, Commissioner. In Mr L'Estrange's notes he's
13:08:16 21 received information from a casino that Solicitor 2 had
13:08:21 22 cashed out \$50,000 in chips for cash. Obviously he's
13:08:29 23 starting to get information from the casino as well. What
13:08:31 24 appears to be the case though is that certainly information
13:08:36 25 that Ms Gobbo is providing is relevant to this
13:08:41 26 investigation?---Yes.
13:08:42 27
13:08:46 28 Now, then if we can go back to the meeting of 29 June. I'm
13:08:54 29 sorry, 20 June that you have with the ACC. The information
13:09:02 30 that Ms Gobbo provides is that, or this is passed on, the
13:09:09 31 result - I withdraw that. Your notes say the result,
13:09:18 32 sorry, "Resolve that Solicitor 2 and associates, associated
13:09:24 33 people re legal costs. Reluctant to examine Barrister 1
13:09:31 34 due to the fact that he wouldn't have knowledge regarding
13:09:35 35 fees, it would all be handled by the clerk. However did
13:09:40 36 not rule out calling him if evidence of others requires it.
13:09:45 37 Spelt out that we want Solicitor 2 to document every day's
13:09:53 38 appearance and how she was paid, by whom, when and where
13:09:58 39 money went and her knowledge of Barrister 1's payments and
13:10:03 40 casino allegations, et cetera". So basically what you're
13:10:06 41 doing there, I take it, is briefing the ACC about what you
13:10:10 42 want done in that investigation, is that fair to
13:10:14 43 say?---Yeah. I'm not sure that they accepted this
13:10:18 44 investigation, so I may well have been asking whether it's
13:10:21 45 possible, I'm not sure that that actually went ahead.
13:10:26 46 Maybe Solicitor 1 got asked some questions, I don't know.
13:10:29 47

.20/11/19

9640

BATESON XXN - IN CAMERA

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13:10:29 1 Ultimately it turns out she does. What they say insofar as
 13:10:33 2 the barrister is, "We don't think there's much value there
 13:10:37 3 because he doesn't handle the money, that's held by the
 13:10:41 4 clerk". That's what you were told, is that right?---Yeah,
 13:10:44 5 I remember that. I didn't agree with it but I remember it.
 13:10:47 6
 13:10:48 7 29 June 2005. In your diary you meet with Ms Gobbo again,
 13:10:57 8 is that right?---Yes.
 13:10:58 9
 13:11:00 10 And do you know how that meeting came about?---I don't have
 13:11:04 11 a note of it.
 13:11:11 12
 13:11:12 13 By this stage you're quite keen to get information from her
 13:11:15 14 so it may well be you contacted her?---Oh look I don't have
 13:11:19 15 a note so I can't categorically say that's no, but my
 13:11:25 16 recollection of that time is it was her that was reaching
 13:11:26 17 out to me.
 13:11:27 18
 13:11:28 19 I mean in other areas, other notes we see references to her
 13:11:30 20 calling you but there's no note of that here?---Yeah, and
 13:11:34 21 you also see references when I call her.
 13:11:36 22
 13:11:37 23 Yes?---For whatever reason I didn't note it on this
 13:11:40 24 occasion, I did on some others. But yeah, my memory was
 13:11:44 25 that she was, she was contacting me.
 13:11:47 26
 13:11:47 27 In any event what it does say is it was prearranged through
 13:11:51 28 phone calls and there were points of interest?---Yes.
 13:11:53 29
 13:11:54 30 "George Williams has taken out a loan against a particular
 13:11:59 31 address which may be dodgy to pay legal fees. Money will
 13:12:03 32 be paid on 1 July 2005, full funding not resolved.
 13:12:07 33 Solicitor 2 is a regular at the TAB near her office.
 13:12:11 34 Mokbel is applying for bail variations on Friday to travel
 13:12:17 35 to Queensland and she would not be surprised if Solicitor 1
 13:12:21 36 joins him." Now, it's clear enough that you would have
 13:12:27 37 been aware that Gobbo was acting for Tony Mokbel at about
 13:12:32 38 this time?---I don't - - -
 13:12:39 39
 13:12:39 40 It's pretty common knowledge?---Yeah, I don't know that I
 13:12:42 41 was.
 13:12:43 42
 13:12:43 43 What you say now is you can't recall being aware of it but
 13:12:46 44 can I suggest to you that if you're sitting there in a café
 13:12:51 45 and you're having a chat to her about Mr Mokbel, bearing in
 13:12:56 46 mind - it would have been something that you would have, if
 13:13:07 47 not discussed with her then, you would have spoken to

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13:13:10 1 others when you went back to the office?---Look it's a
 13:13:13 2 possibility. What I thought at the time, and probably
 13:13:16 3 still think now, is that this, this information was coming
 13:13:21 4 more so from Solicitor - I can't remember which one she is.
 13:13:29 5
 13:13:29 6 2?---2.
 13:13:30 7
 13:13:31 8 Yes, all right. The reality is she was quite happy to be
 13:13:34 9 telling you about Mokbel, what he was doing, what were
 13:13:39 10 regarded perhaps by her as nefarious conduct on the part of
 13:13:43 11 both her and Solicitor 2?---Yep.
 13:13:45 12
 13:13:45 13 Him and Solicitor 2, rather?---Yep.
 13:13:48 14
 13:13:48 15 And this is in relation to her client. In fact she's
 13:13:52 16 acting for both of them. We know she had gone down and
 13:13:56 17 advised Solicitor 2?---Yeah.
 13:13:58 18
 13:13:58 19 According to Ms Kerley's notes?---I don't think she
 13:14:02 20 received this information though in receiving legal
 13:14:04 21 instruction.
 13:14:04 22
 13:14:05 23 No, whether or not she did. In any event you say that
 13:14:10 24 because of a recollection or what?---No, I reckon this was
 13:14:14 25 all in, in social chats with Solicitor 2 that most of this
 13:14:19 26 came out.
 13:14:20 27
 13:14:20 28 All right. In any event he's applying for a bail variation
 13:14:25 29 on Friday, that's the sort of thing she is likely to learn
 13:14:29 30 being his barrister, isn't it?---Could well be, yeah.
 13:14:33 31 Could be.
 13:14:33 32
 13:14:33 33 Anyhow, she goes on. "It's possible that they're in a
 13:14:37 34 sexual relationship. Mokbel is currently associating with
 13:14:42 35 a loan shark from Queensland" and she gives you a name.
 13:14:46 36 "She can't work out why as Tony I seems to be giving him
 13:14:50 37 money", right?---So just to be clear, it's that she - my
 13:14:57 38 note is around a possible sexual relationship between
 13:15:03 39 Solicitor 2.
 13:15:04 40
 13:15:05 41 Solicitor 2 and Mokbel?---And Mokbel.
 13:15:06 42
 13:15:06 43 Yes, not Gobbo?---No.
 13:15:07 44
 13:15:09 45 Yes, I follow that. Then you tell Detective Ryan about
 13:15:14 46 this and Detective Sergeant Wilson and L'Estrange regarding
 13:15:17 47 - so you speak to those people?---Yep.

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13:15:20 1
13:15:20 2 "Wilson's going to follow up the loan, possible TAB
13:15:25 3 accounts, Solicitor 2, and another possible trip to
13:15:30 4 Queensland by Solicitor 2", right?---Correct.
13:15:35 5
13:15:35 6 And then you speak to a federal agent about another matter,
13:15:43 7 a bail variation, stating that they'd been informed that he
13:15:48 8 was going to Queensland for two weeks with his family, the
13:15:53 9 name", is that right, the name - "Informed same of", I
13:15:58 10 think it's Clinton, is it, "And our interest in Solicitor
13:16:03 11 2"?---Yeah, I think that just indicates that I - - -
13:16:06 12
13:16:07 13 That you'd passed on that information to the federal
13:16:10 14 agent?---Some of it, anyway. I'm not sure what I passed
13:16:14 15 on.
13:16:14 16
13:16:14 17 You passed on the information about Solicitor 2, given -
13:16:18 18 and Mr Mokbel and the loan shark, as set out in your notes?
13:16:30 19 Do you accept that?---I'm looking at the wrong date.
13:16:40 20 Sorry, I'm - - -
13:16:43 21
13:16:44 22 Page 31 of your diary?---Yeah. Yeah, so I informed the
13:17:00 23 same, the federal agent around Clinton and our interest in
13:17:08 24 - - -
13:17:08 25
13:17:08 26 In Solicitor 2. Thanks Mr Bateson.
13:17:13 27
13:17:13 28 COMMISSIONER: We'll adjourn until 2 o'clock now.
29
13:17:39 30 <(THE WITNESS WITHDREW)
13:17:40 31
13:17:40 32 LUNCHEON ADJOURNMENT.
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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14:07:10 1 UPON RESUMING AT 2.00 PM:

14:07:10 2
14:07:10 3 COMMISSIONER: Yes Mr Nathwani.

14:07:10 4
14:07:10 5 MR NATHWANI: Sorry, Commissioner, we received a
14:07:10 6 notification as to a directions hearing on Friday morning
14:07:10 7 that you intend on having. Can I simply ask this, that it
14:07:10 8 be heard instead at 2 o'clock for this reason.

14:07:10 9
14:07:10 10 COMMISSIONER: The one concerning Ms Gobbo?

14:07:10 11
14:07:10 12 MR NATHWANI: Yes.

14:07:10 13
14:07:10 14 COMMISSIONER: It was mentioned to me as I was coming back
14:07:10 15 to court and I've indicated that that was fine.

14:07:10 16
14:07:10 17 MR NATHWANI: I'm grateful, thank you.

14:07:10 18
14:07:10 19 COMMISSIONER: The directions hearing in respect of
14:07:10 20 Ms Gobbo will be at 2 o'clock.

14:07:10 21
14:07:10 22 MR NATHWANI: Thank you. Yes, I didn't mean the
14:07:10 23 whole - - -

14:07:10 24
14:07:10 25 COMMISSIONER: Yes. Yes, Mr Winneke.

14:07:10 26
14:07:10 27 <STUART BATESON, recalled:

14:07:10 28
14:07:10 29 MR WINNEKE: I think I was dealing with the 29th, your
14:07:10 30 entry on 29 June 2005, and you went to your notes and your
14:07:11 31 view was that there was a discussion with the Federal Agent
14:07:14 32 about two aspects, one was Clinton and the other you
14:07:18 33 informed him about your interest in Solicitor 2?---Yes.

14:07:24 34
14:07:40 35 On [REDACTED] there was a mention in the Supreme Court before
14:07:40 36 Justice King; is that right?---Yes.

14:07:45 37
14:07:45 38 That was in the matters of [REDACTED] and [REDACTED] and [REDACTED];
14:07:55 39 is that right?---I assume so. There was some joint
14:07:59 40 mentions.

14:08:00 41
14:08:00 42 Yes?---So, yeah, if you say that is from the transcript I
14:08:05 43 accept it.

14:08:06 44
14:08:06 45 All right. At that stage [REDACTED] was representing [REDACTED]
14:08:14 46 [REDACTED], [REDACTED] was representing [REDACTED], Ms Gobbo
14:08:20 47 appeared for [REDACTED] and there was argument had as to the

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14:08:26 1 order of trials. And there was - and I think you've
14:08:33 2 referred to this in your - - - ?---Supplementary statement.
3
14:08:42 4 Indeed your statement also. There was a divergence of
14:08:43 5 views about which trial should proceed first and the view
14:08:47 6 of - the application was that the trial of I think [REDACTED]
14:08:55 7 for the murder of [REDACTED], the Crown wanted to proceed
14:08:59 8 with that trial first?---Yes.
9
14:09:04 10 And there was argument as to whether that was the
14:09:07 11 appropriate order in which things should be done. That was
14:09:10 12 opposed I think by those representing [REDACTED], [REDACTED] and [REDACTED] but
14:09:19 13 nonetheless ultimately Justice King said it was a matter
14:09:23 14 for the Crown to determine which order they wanted to
14:09:28 15 proceed in?---Yeah, I think it was the other way round. I
14:09:31 16 think [REDACTED] wanted the [REDACTED] matter raised first
14:09:34 17 and it was opposed by the OPP. That's the way it ran.
18
14:09:38 19 In any event, the upshot of it was that it was determined
14:09:41 20 that the [REDACTED] trial, the [REDACTED] murder trial would
14:09:47 21 proceed first and indeed that then commenced later on in
14:09:50 22 the year?---Yes.
23
14:09:51 24 Okay. In your diary on that day, the [REDACTED], there's
14:09:59 25 discussion that you have with Solicitor 2. You requested
14:10:05 26 in the presence of [REDACTED] that subpoenas be served on,
14:10:15 27 what is it, St Kilda "due to limited time and she stated
14:10:21 28 she would email them today"; is that right?---Yeah, I think
14:10:25 29 there were some problems because of quick return dates,
14:10:29 30 they sometimes got caught in the VicPol system and it cut
14:10:34 31 down our days.
32
14:10:35 33 And Ms Gobbo indicated that a subpoena might be forthcoming
14:10:43 34 and she was making representations on behalf of [REDACTED]
14:10:46 35 and she provided an email address; is that right?---I'm not
14:10:50 36 sure whether I provided mine or the other way around.
37
14:10:55 38 No doubt - you probably provided her with an email first so
14:11:00 39 the expedited service could take place; is that
14:11:02 40 right?---That's the way I'd interpret it but not positive
14:11:05 41 about it.
42
14:11:06 43 Okay. You then on the 21st of July meet with Ms Gobbo
14:11:14 44 again for the purposes of receiving information from her;
14:11:18 45 is that right?---Yes.
46
14:11:23 47 Again on this occasion - do you know how that meeting came

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14:11:26 1 about?---No, I don't have a note of it but I think it's
 14:11:35 2 what we spoke of before.
 3
 14:11:36 4 Right. On that occasion you met with her again at a CBD
 14:11:42 5 coffee shop. Approximately an hour that meeting went on
 14:11:47 6 for; is that right?---Yes.
 7
 14:11:48 8 Ms Gobbo said that Barrister 1 had been paid \$100,000 in
 14:11:53 9 two separate cheques?---Yes.
 10
 14:11:55 11 Payments made through bookmakers and money ultimately
 14:11:58 12 coming from Tony Mokbel and he would continue to pay the
 14:12:04 13 legal fees?---Yes.
 14
 14:12:08 15 He was trying to get, that is Barrister 1 was trying to get
 14:12:13 16 charges against Solicitor 2 dropped, is that right? Is
 14:12:28 17 that what she told you?---Yes.
 18
 14:12:29 19 There's a reference to an address, "[REDACTED] Street
 14:12:33 20 released", is that released from a restraining order of
 14:12:35 21 some sort, is that right?---Yes, that was my main interest
 14:12:38 22 in how they were getting paid, because we had all the
 14:12:42 23 assets restrained and future earnings restrained. So yep,
 14:12:46 24 that would be I think - - -
 25
 14:12:47 26 Can I ask you this - - - ?---George William's mum's.
 27
 14:12:52 28 Was part of the plan, the operation plan, in effect to
 14:12:54 29 starve these people of funds with which they could pay
 14:13:00 30 their lawyers to represent themselves - be represented?---I
 14:13:03 31 don't know that was the plan. We thought that they were
 14:13:05 32 working round those restraining orders, subverting them.
 14:13:08 33 We were pretty confident they were worded in such a way
 14:13:13 34 that any assets, earnings or future earnings were
 14:13:17 35 restrained. So the question arose: how does one pay one's
 14:13:20 36 barrister ?
 14:13:21 37
 14:13:21 38 I follow that. As I understand it the point that - what
 14:13:25 39 you were trying to achieve here was that - and I get your
 14:13:29 40 grievance is, "Look, these people, they're entitled to
 14:13:33 41 legal representation but they shouldn't be paying for their
 14:13:37 42 lawyers on ill-gotten gains. If they need representation
 14:13:40 43 and they can't afford it there's the Legal Aid Commission",
 14:13:44 44 et cetera. But your concern was, "These people are paying
 14:13:48 45 lawyers with private funding and we want to see what we can
 14:13:52 46 do to stop that"?---No. I don't disagree, except I would
 14:13:55 47 say rather than private funding I would say proceeds of

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14:13:58 1 crime.
2
14:13:58 3 Proceeds of crime. When I say privately paid, I'm meaning
14:14:02 4 as opposed to Legal Aid?---Yes.
5
14:14:03 6 Insofar as you say this cadre of lawyers who are in effect
14:14:15 7 supporting this criminal enterprise, they're doing so by
14:14:18 8 getting around restraining orders, and you say deliberately
14:14:21 9 so, to enable these people to be represented by - these
14:14:27 10 criminals to be represented by these particular lawyers,
14:14:29 11 that's the gist of it, isn't it?---Yeah, I would say they
14:14:32 12 were paying for their fees by proceeds of crimes and the
14:14:35 13 barristers and solicitors involved received those funds
14:14:38 14 knowingly.
15
14:14:40 16 Yes, I follow that. Did you ever ask Ms Gobbo how she was
14:14:46 17 getting paid?---No.
18
14:14:48 19 She was getting paid, one assumes?---I don't know about
14:14:51 20 that.
21
14:14:51 22 Well, you didn't ask her, that's why you don't know I
14:14:56 23 assume?---Probably.
24
14:14:57 25 Again, is that an example perhaps of Ms Gobbo getting
14:15:00 26 different treatment because she was prepared to get on
14:15:03 27 board, if you like?---I don't know. I don't know. I don't
14:15:10 28 know as I sit here. Probably.
29
14:15:12 30 Probably?---Yeah.
31
14:15:13 32 Yeah. If we go a step further it might be said you're
14:15:26 33 prepared to turn a blind eye to Gobbo getting paid because
14:15:29 34 you're getting assistance from her?---I think the - and
14:15:32 35 looking back now there was conversations did she have with
14:15:35 36 me about being owed significant money, so I'm not quite
14:15:39 37 sure whether that, how that played in with my thinking but
14:15:42 38 in those early meetings I think she said she was owed a
14:15:46 39 large amount of money by some of these characters.
40
14:15:49 41 Yeah?---And yeah, so I'm not sure how that played into my
14:15:55 42 thinking.
43
14:15:56 44 In any event, certainly with respect to Solicitor 2, you
14:15:58 45 had her put before a compulsory hearing body to find out
14:16:04 46 what she was paid, when she was paid, all of these sorts of
14:16:08 47 things, to determine whether these people were in fact

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14:16:12 1 knowingly being in receipt of, I take it money?---I know I
14:16:19 2 wanted to. Just as I sit here I'm not sure whether that
14:16:23 3 was done. I accept that you perhaps - did you mention, I
14:16:27 4 think you did before, that that happened. I know I met
14:16:30 5 with - - -
6
14:16:31 7 It's not clear whether in fact it did happen, and we've got
14:16:37 8 the ACC in the back, I don't know whether they'll say or
14:16:43 9 not. I can't tell you. You don't know?---No, I don't
14:16:45 10 know. I know I had that meeting with the ACC and wanted to
14:16:49 11 go down that track.
12
14:16:50 13 Yeah?---I knew they - I remember them showing more interest
14:16:54 14 in the pursuit of Solicitor 2 than Barrister 1.
15
14:16:58 16 Nonetheless, I think with respect to Barrister 1 you gave
14:17:02 17 Ms Gobbo [REDACTED] pass it
14:17:07 18 back to Barrister 1 to the effect that there was a plan
14:17:14 19 afoot to get him before the ACC?---I think I did actually.
20
14:17:19 21 COMMISSIONER: And did it go back?---I don't know. I do
14:17:21 22 know that Barrister 1 withdrew.
23
14:17:23 24 Sorry, that should be Barrister 1?---Sorry. So I don't
14:17:28 25 know but I suspect it may have.
26
14:17:37 27 MR WINNEKE: It may well be that he had another trial that
14:17:39 28 he was involved in. Do you know or not?---No, I don't
14:17:45 29 know.
30
14:17:46 31 All right. The other information that you gleaned was that
14:17:59 32 Ms Gobbo had said to remember to ask Solicitor 2 what she'd
14:18:05 33 thought her obligations were in relation to the source of
14:18:09 34 client funds and what steps she undertook on the occasion
14:18:15 35 that was being referred to. Do you see that in your
14:18:20 36 notes?---Yes.
37
14:18:20 38 So effectively you're having a discussion with her and
14:18:23 39 you're saying, "Well look" - I take it you're telling her,
14:18:28 40 "This is what we're going to do, we're going to get her
14:18:31 41 before the ACC" and she's saying to you, "You might want to
14:18:35 42 ask these questions". That's what that looks like, do you
14:18:38 43 agree with that?---No, I don't think I'd be giving her too
14:18:42 44 much information unless it was something that I
14:18:44 45 deliberately wanted to.
46
14:18:45 47 I follow that?---I don't agree that I necessarily, unless

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14:18:48 1 I've got a note there of it somewhere.
2

14:18:50 3 What she does say is, "Remember to ask her what she thinks
14:18:56 4 her obligations are in relation to the source of client
14:19:00 5 funds and what steps she undertook on this occasion to
14:19:04 6 satisfy that responsibility". One assumes that she had to
14:19:08 7 ensure the funds were clear. It does seem that she gets
14:19:11 8 the idea that you're going to be putting questions to
14:19:14 9 her?---One way or the other, yep.
14:19:15 10
14:19:16 11 And she helpfully offers that advice?---She does, yeah.
12

14:19:21 13 All right. Then if we follow this through, and I don't
14:19:28 14 need to do this in any great detail or time, but if we go
14:19:34 15 to Purana updates on 27 June, 4 July, 11 July through to 1
14:19:40 16 August. What we can see is that pursuant to the
14:19:46 17 information that you've been provided and the plans that
14:19:48 18 are afoot, investigators go - you might as well put them
14:19:55 19 up, updates 27 June. There we are, 27 June. There's a
14:20:03 20 reference to "continuing inquiries regarding the affairs of
14:20:07 21 Solicitor 2, analysis of material obtained by production,
14:20:12 22 orders obtained". Sorry, "production orders continued".
14:20:17 23 Do you know what that is?---No, but I would - one of two
14:20:26 24 things probably. ACC production orders. I think there's
14:20:30 25 also some production orders available under the asset
14:20:34 26 seizure legislation, but I - - -
27

14:20:38 28 So either one of those. They're compulsory production
14:20:41 29 orders which require her to produce documents, whether it
14:20:45 30 be ACC or whether it be asset?---Yeah, or potentially that
14:20:48 31 was around the clerks, I'm not sure.
32

14:20:50 33 Then the week commencing Monday 27. You've got
14:20:53 34 investigators to travel to Queensland regarding gaming
14:20:57 35 inquiries with Jupiters, and that's Operation Pedal, and
14:21:00 36 that clearly relates to Solicitor 2 and Mokbel and so
14:21:03 37 forth, is that fair to say?---Yeah, I just think they went
14:21:07 38 up to get some statements.
39

14:21:08 40 Was that Mr L'Estrange went up and did that?---Possibly.
14:21:13 41 Does he put it in his chronology? 27 June.
42

14:21:19 43 I don't know in relation to that. In any event; does
14:21:22 44 he?---He doesn't. So he might not have gone.
45

14:21:25 46 It might be someone else?---Yeah.
47

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14:21:27 1 In any event, the next entry, similar sorts of - if we can
 14:21:32 2 just go to 3 July again. This is being pursued. If we go
 14:21:37 3 down to, "Continuing inquiries", this is about the fifth
 14:21:42 4 arrow, "Regarding the affairs of Solicitor 2. Information
 14:21:46 5 passed to ACC", and they've got an operation going it
 14:21:53 6 seems, Midas, regarding financial affairs of - I withdraw
 14:21:59 7 that. That's a different person as part of that
 14:22:02 8 operation?---Yeah, it seems that Op Midas might be to do
 14:22:08 9 with the financial affairs of [REDACTED].
 10
 14:22:15 11 If we go further down - - -
 12
 14:22:17 13 COMMISSIONER: Is that another name that has to come out,
 14:22:20 14 is it?
 15
 14:22:22 16 MR WINNEKE: That's got to come out, sorry, Commissioner.
 17
 14:22:26 18 COMMISSIONER: If we could take that name out. There'll be
 14:22:29 19 no publication of that name.
 20
 14:22:35 21 MR WINNEKE: Then you see investigators, this is the week
 14:22:40 22 of 4 July, will travel to Queensland regarding gaming
 14:22:43 23 inquiries on Solicitor 2 and Mokbel, Jupiters Casino,
 14:22:48 24 Operation Pedal. It's very much part of the work of Purana
 14:22:52 25 at this stage?---Yes.
 26
 14:22:54 27 Next one, 11 July, investigators have travelled to
 14:23:04 28 Queensland, do you see that, third dot or arrow?---Yes.
 29
 14:23:15 30 And then there's also a reference to the trial dates for
 14:23:18 31 [REDACTED] for the murder of [REDACTED] there. If we then go
 14:23:23 32 to the next entry on 1 August. Again we see that - at the
 14:23:50 33 bottom, money laundering by Operation Pedal, money
 14:23:56 34 laundering by Solicitor 2. That's still being pursued in
 14:23:59 35 August 2005?---Yeah, it appears it's certainly on the books
 14:24:06 36 still.
 37
 14:24:06 38 Then if we go to 15 August 2005. Week commencing 15 August
 14:24:19 39 2005, "ACC hearing this week for Solicitor 2 over how she
 14:24:24 40 got her legal funding and money laundering matters", do you
 14:24:27 41 see that?---Oh yeah, in the week commencing, yep.
 42
 14:24:39 43 The fourth arrow in the week ending 14 August,
 14:24:43 44 investigators have travelled to obtain information and
 14:24:48 45 video footage, and you say you can certainly recall seeing
 14:24:53 46 that video footage?---Yeah.
 47

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14:25:00 1 Then if we go to your statement at paragraph 69?---First
 14:25:07 2 statement?
 3
 14:25:08 4 Yes. Indeed perhaps we'll go to your diary entries. This
 14:25:13 5 might be the answer to the question. "On duty at the
 14:25:25 6 office. Corro inquiries". This is on the 17th?---Of?
 7
 14:25:31 8 Of August. Yeah, there we are, that's the answer. "At ACC
 14:25:39 9 re examination of Solicitor 2 and Tony Mokbel"?---Ah. I
 14:25:45 10 remember the - I don't remember being there for her.
 11
 14:25:47 12 And the following day. Do you see that?---2005 we're
 14:25:57 13 talking about?
 14
 14:25:58 15 Yes, 2005?---Yep, just found it.
 16
 14:26:06 17 Then you have a meeting with Ms Gobbo on 23 August 2005.
 14:26:15 18 Again this is - I think it's in your statement and your
 14:26:21 19 diary. You meet her at a coffee shop?---Yes.
 20
 14:26:25 21 The meeting arranged after receipt of a phone call from
 14:26:28 22 Ms Gobbo and she's obviously wanting to provide you with
 14:26:35 23 information?---Yes.
 24
 14:26:36 25 And she says that Solicitor 2 is very upset regarding the
 14:26:41 26 examination and she's purchased a pit bull so LDs can't be
 14:26:49 27 installed. She believes that Mokbel is not paying
 14:26:52 28 Williams' legal fees. Barrister 1 is worried that he will
 14:26:56 29 be examined and you [REDACTED] inform her that this would
 14:27:01 30 be happening?---Yeah, I think - - -
 31
 14:27:02 32 That's the - - - ?---That's the time. I only did that
 14:27:06 33 once.
 34
 14:27:09 35 And that that would be happening and stated that Solicitor
 14:27:13 36 1 is driving a BMW that is registered to one of Tony
 14:27:18 37 Mokbel's friends - I'm sorry, Solicitor 2 - one of Tony
 14:27:22 38 Mokbel's friends and is probably hot. George Williams has
 14:27:28 39 financed or has refinanced a property and she believes,
 14:27:34 40 Gobbo believes that the loan will be bodgie, based on a
 14:27:38 41 bodgie valuation, and you asked her if she could find out
 14:27:43 42 anything further about the loan and the vehicle. Then you
 14:27:46 43 pass that information on to DDI Ryan, correct?---Correct.
 44
 14:27:56 45 Did you have a view of Ms Gobbo's motivation for speaking
 14:28:03 46 to you?---I think - I don't know that I had a concrete
 14:28:11 47 view. I did think it was motivated by her personal dislike

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14:28:23 1 for Solicitor 2.
2
14:28:25 3 Yes?---Largely.
4
14:28:32 5 Did you take the view that she was seeking to gain
14:28:35 6 something herself?---Not really. I don't think I did at
14:28:38 7 that time.
8
14:28:40 9 You must have had - so aside from the motivation of a
14:28:44 10 dislike for a particular solicitor, it's a strange thing to
14:28:48 11 do, I mean you must admit, for a barrister, a legal
14:28:55 12 practitioner to be coming to a detective who's charged
14:28:59 13 people who she's represented, and I might say a person who
14:29:08 14 has been the subject of threats to kill by a person who
14:29:15 15 she's represented, and come to you and start telling you
14:29:18 16 this sort of information. What was your honest view about
14:29:20 17 this?---I don't know. I thought at the time it was not an
14:29:28 18 ordinary circumstances to have a legal practitioner talking
14:29:31 19 to me in that manner, but it wasn't unusual for an
14:29:39 20 associate of these people to be talking to me in that
14:29:41 21 manner.
22
14:29:42 23 Yeah?---If you know what I mean. It was very common that
14:29:45 24 we'd get tidbits of information from different people.
14:29:49 25 That was our job, you know, collecting those little seeds
14:29:53 26 that might be able to grow into something else. I think I
14:29:56 27 was considering it more from that point of view than any
14:29:59 28 formal barrister/client relationship.
29
14:30:02 30 No, no, I follow that. I follow that?---So, you know,
14:30:07 31 although I'm sure you put to me that it's an exceptional
14:30:11 32 circumstance to have a legal practitioner to do that. I
14:30:14 33 can tell you it's the only time I've had that happen to me.
14:30:19 34 It wasn't the only time that an associate had provided me
14:30:22 35 with information, and generally speaking people's
14:30:25 36 motivation are driven by, you know, either a personal gain,
14:30:31 37 which is obvious.
38
14:30:31 39 Yeah?---"Get me out of charges" or whatever, or personal
14:30:36 40 animosity.
41
14:30:39 42 It must have been something that you discussed with Ryan
14:30:42 43 and other people because you're getting information which
14:30:44 44 is actually being acted upon. This Operation Posse,
14:30:49 45 whether or not you were aware of it, seems to be operating
14:30:53 46 to a significant extent on the information that Gobbo is
14:30:57 47 providing to you?---No, no.

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1
 14:30:59 2 It's kicking it along, there's no question about that,
 14:31:02 3 you'd have to agree?---I haven't seen any evidence of that.
 14:31:07 4 Operation Pedal - - -
 5
 14:31:10 6 Operation Pedal?---I thought you said Operation Posse.
 7
 14:31:12 8 Yes, I did. I withdraw that. Operation Pedal?---Yeah, I
 14:31:13 9 think it helped with Operation Pedal, there's no doubt.
 14:31:16 10 I'm not going willing to concede that that was the main
 14:31:18 11 point, I think we had some other information as well. But
 14:31:21 12 no doubt it contributed to that.
 13
 14:31:22 14 So to come back to discussions you had with Mr Ryan, was
 14:31:27 15 there any thought that this relationship could be utilised
 14:31:33 16 by police to pursue criminals actively?---I don't recall
 14:31:41 17 any such conversations but what I do remember is that when
 14:31:46 18 I sort of asked her to find out about the loan and the
 14:31:50 19 vehicle, that was moving that way.
 20
 14:31:52 21 Yeah. That's certainly - I mean that stands out because it
 14:31:58 22 appear to be you're saying, look, righto - - - ?---Maybe we
 14:32:03 23 can get her to find out whereas previous - - -
 24
 14:32:06 25 It's asking her to get information from that - - -
 14:32:06 26 ?---Where previous to that she's provided me gossip really,
 14:32:11 27 unsolicited gossip.
 28
 14:32:13 29 But nonetheless material that has been utilised by police
 14:32:16 30 to further Operation Pedal?---Yep.
 31
 14:32:19 32 Clearly it's information which Ryan's aware of, other more
 14:32:22 33 senior police officers, whether or not you know about it,
 14:32:26 34 it's likely that they would have been accumulating this
 14:32:29 35 information?---Oh, yeah, I'd expect, you know, it may not
 14:32:34 36 appear on those updates regularly, but I can't imagine why
 14:32:40 37 Gavan wouldn't share that up the line. He might not have
 14:32:44 38 but I can't imagine why he wouldn't have.
 39
 14:32:48 40 Because you've got a barrister who has - whichever way you
 14:32:56 41 look at it, providing - you say look, [REDACTED] was always going to
 14:33:01 42 come on board. [REDACTED] might have always going to have pleaded,
 14:33:09 43 but he might not necessarily have come on board and given
 14:33:12 44 evidence, do you agree with that?---No, not by a long shot.
 45
 14:33:14 46 You don't agree with that?---And I think Mr Lovitt puts
 14:33:16 47 some of his history to me in cross-examination and the way

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14:33:18 1 he conducted himself, the 464B, indicating [REDACTED] on the night,
 14:33:24 2 he was always going to come. He was always going to come.
 3
 14:33:28 4 But she certainly assisted in getting him over the
 14:33:32 5 line?---No, I don't agree with that.
 6
 14:33:36 7 Don't agree with that?---No, don't agree with that.
 8
 14:33:48 9 In any event she was prepared - I withdraw that. If we
 14:33:49 10 then go to 29 August, a Purana update. You see there that
 14:34:02 11 there was a hearing in relation to Mokbel and Solicitor 2,
 14:34:12 12 another person I won't mention. Further down there's a
 14:34:25 13 note with respect to Operation Dozer which concerns the
 14:34:32 14 murders of [REDACTED] - I'm sorry, [REDACTED] and [REDACTED] is that
 14:34:39 15 right?---Yes, yes.
 16
 14:34:43 17 "Investigators responded to a subpoena from the defence
 14:34:45 18 regarding disclosure of information reports on [REDACTED]
 14:34:50 19 [REDACTED]. It was decided that certain information would be
 14:34:52 20 released to Mr Grant and not Solicitor 2"; is that
 14:35:00 21 right?---That's what it says there.
 22
 14:35:02 23 That's at about the time, you recall I put it to you that
 14:35:06 24 affidavit that - - - ?---Nigel does.
 25
 14:35:10 26 Nigel L'Estrange prepared and setting out a basis why as
 14:35:14 27 far as you were concerned, because of her connection with
 14:35:16 28 criminals and other matters that you were aware of, it was
 14:35:20 29 considered not appropriate, as far as police was concerned,
 14:35:23 30 that she be given access to that material; is that
 14:35:26 31 right?---Oh, I don't know the basis of that affidavit
 14:35:32 32 completely but - - -
 33
 14:35:34 34 You may not recall it now?---Yeah, and I don't actually
 14:35:37 35 recall that either but I'm not saying it's not possible.
 14:35:44 36 It may well be that Steve Spargo thought that this was a
 14:35:50 37 decision where it might have been just a suggestion, I'm
 14:35:52 38 not sure.
 39
 14:35:54 40 What we also see there is that "investigators will be
 14:36:03 41 appearing regarding a bail application by [REDACTED] and
 14:36:06 42 will be responding to further subpoenas in relation to
 14:36:09 43 Dozer"?---Yes.
 44
 14:36:13 45 Indeed, as we understand it Ms Gobbo, I think on [REDACTED]
 14:36:18 46 [REDACTED] did in fact appear for [REDACTED] in a bail
 14:36:24 47 application?---Yes.

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1
 14:36:29 2 And she made submissions - you prepared a statement or an
 14:36:35 3 affidavit or information which was used for the purpose of
 14:36:38 4 a bail application?---Did I? Did I? I'm not sure. Did I?
 5
 14:36:43 6 Do you recall?---I don't recall. It's possible.
 7
 14:36:45 8 Well, were you at the bail application? I believe you
 14:36:49 9 were?---Yeah, I've got a note of it in my chronology.
 10
 14:36:58 11 She made submissions as to the nature of the case against,
 14:37:04 12 not surprisingly, against [REDACTED] and obviously one of
 14:37:09 13 the things that often occurs in a bail application is that
 14:37:13 14 defence counsel will put a proposition that the case isn't
 14:37:17 15 particularly strong, there's a reasonable prospect of
 14:37:20 16 acquittal and thereafter that should weigh in favour of
 14:37:25 17 someone being granted bail?---Yes, that's common.
 18
 14:37:27 19 I suggest to you that that did occur on this occasion,
 14:37:30 20 although she didn't call you to cross-examine you on any
 14:37:34 21 statement that you had prepared, right, you accept
 14:37:37 22 that?---I'm willing to accept it.
 23
 14:37:39 24 Willing to accept that. Again, in the same way as I put to
 14:37:42 25 you previously about her not asking any questions about the
 14:37:49 26 production of materials, she had information that she could
 14:37:57 27 have used, whether or not she decided to use it at that
 14:38:00 28 stage, whether or not she decided to keep her powder dry,
 14:38:03 29 if she was genuinely able and without conflict to appear
 14:38:07 30 for [REDACTED] she had information about the preparation of
 14:38:13 31 [REDACTED] statement which conceivably would have gone to his
 14:38:16 32 credit and conceivably could have been used to tarnish the
 14:38:20 33 case against her client, do you accept that
 14:38:24 34 proposition?---I don't accept the second one.
 35
 14:38:25 36 Yes?---But I accept the first.
 37
 14:38:28 38 Yeah. Any opportunity that you had to in effect pull the
 14:38:39 39 rug out of the Crown case on a bail application would be
 14:38:42 40 useful, it would be useful to make those points. Now she
 14:38:46 41 certainly couldn't have made that point, do you accept,
 14:38:50 42 because she was hopelessly conflicted?---Well, I would have
 14:38:57 43 been shocked if she had have, after us protecting her
 14:39:02 44 safety, I would have been shocked if she declared herself
 14:39:04 45 as being involved.
 46
 14:39:05 47 And said, "Look, I know how this statement process came

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14:39:09 1 about. He produced a statement which was
 14:39:14 2 ridiculous"?---With me.
 3
 14:39:15 4 "And we fixed it up". That would be absurd if she did
 14:39:19 5 that, wouldn't it?---That's because it didn't happen.
 6
 14:39:22 7 Subsequently that's what she's saying to people down the
 14:39:25 8 track, she's saying it time and time again as we heard?---I
 14:39:30 9 don't think that's what she said.
 10
 14:39:31 11 In any event she was in possession of information which
 14:39:36 12 meant that she simply couldn't have properly discharged her
 14:39:38 13 duty to her client?---Yeah, I don't know about that.
 14:39:42 14 That's something that I'd have to seek some advice off
 14:39:46 15 people that knew better.
 16
 14:39:48 17 All right, okay. I take it you didn't seek advice about
 14:39:52 18 that?---No, because I knew Mr Horgan, who appeared at the
 14:39:56 19 bail application.
 20
 14:39:59 21 I think it was Mr Tinney in fact?---Oh, was it?
 22
 14:40:08 23 The following day I think you went back to the Supreme
 14:40:15 24 Court and you attended in relation to a subpoena argument;
 14:40:21 25 is that right?---Yeah, I've got that note in my diary.
 26
 14:40:24 27 9 September?---Yep.
 28
 14:40:41 29 That was an issue about public interest immunity with
 14:40:44 30 respect to information reports; is that right?---It was
 14:40:55 31 definitely around public interest immunity. It seems
 14:40:57 32 likely, after that update that I've read there, but I just
 14:41:01 33 don't recall the contents of that particular mention.
 34
 14:41:06 35 As to whether or not you can recall there ever being any
 14:41:11 36 arguments in the Supreme Court before Justice King about
 14:41:14 37 police notes and redactions and public interest immunity
 14:41:16 38 claims, are you able to say or not?---I'd have to think
 14:41:27 39 about that. Can I think about that overnight? I feel like
 14:41:34 40 I want to say yes but I know the next question you're going
 14:41:38 41 to ask me and I just need to go through my notes and have a
 14:41:41 42 think about that.
 43
 14:41:42 44 The answer you don't know, you can't say?---Not as I sit
 14:41:44 45 here but I feel like I could - - -
 46
 14:41:46 47 If you have a look at your notes here it seems that there

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14:41:48 1 was a closed court held in the afternoon to claim PII
14:41:53 2 issues over information reports?---Right.
3
14:41:55 4 That's on Friday, 9 September. Assuming your notes are
14:41:59 5 accurate about that, it's not about notes, it's about
14:42:02 6 information reports?---I remember that one. I'm just not
14:42:05 7 sure if there was another one as well.
8
14:42:08 9 All right. Well - - - ?---I think there maybe was going to
14:42:13 10 be before [REDACTED] then moved into a plea thing, I'm not sure.
14:42:17 11 I'd have to go through the transcripts again.
12
14:42:19 13 Yeah, okay. I mean obviously as we know ultimately that
14:42:27 14 trial, the trial never ran?---The trial never ran, no.
15
14:42:35 16 If we can then move to 14 September. You received a call
14:42:46 17 from Ms Gobbo about a meeting with Mr Mansell of the
14:42:55 18 MDID?---Yes.
19
14:42:57 20 She wanted to know if it was okay to tell them of her
14:43:00 21 involvement with you?---Yes.
22
14:43:05 23 You said that that's no problem. What was your
14:43:11 24 understanding about that? What did you believe she was
14:43:21 25 talking about?---Well look, refreshing my notes I saw a
14:43:27 26 source management log that said a couple of days later I
14:43:31 27 was one of the few members who was aware of her status, and
14:43:34 28 then there's another one further down where I say I'm not
14:43:37 29 allowed to talk to her any more.
30
14:43:39 31 Yes?---I don't know when I became aware when she'd become
14:43:43 32 registered, but I did, and I suspect it's in that period.
33
14:43:48 34 Yeah?---And I expect, but don't know for sure, that it was
14:43:54 35 probably in discussion with Jim O'Brien who was over the
14:43:57 36 Operation Posse phase 2 side of Purana.
37
14:44:01 38 Yeah. Indeed on this occasion you didn't report it to
14:44:04 39 Gavan Ryan, you reported it to Jim O'Brien?---Yeah.
40
14:44:08 41 So it may well be that on this occasion he probably
14:44:13 42 mentioned to you about what was going on, about the plans
14:44:17 43 to have her registered?---Oh, either that or he told me to
14:44:21 44 just leave it alone.
45
14:44:23 46 Yeah?---And I took it from there what it meant.
47

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14:44:26 1 But in any event what you did know is that, what you say is
 14:44:30 2 that around that time you learnt that she was being used a
 14:44:36 3 - - - ?---Yes.
 4

14:44:36 5 The reality is, albeit not registered, and I think we've
 14:44:40 6 had this discussion previously, what she was doing with you
 14:44:43 7 was in effect providing information as a human source to
 14:44:46 8 you in any event?---Yeah, look, I accept that. I think I
 14:44:52 9 said last time that in my view, and I think I'm correct in
 14:44:56 10 this, that the correct definition was someone who wants
 14:45:01 11 their identity protected and is tasked to get information,
 14:45:04 12 and that's certainly what I moved to in that last meeting.
 13

14:45:07 14 In the last one. You'd say whilst - perhaps earlier on no,
 14:45:11 15 certainly later yes, she was moving into the role of an
 14:45:14 16 informer?---Yes.
 17

14:45:15 18 Albeit it does appear, as we've now gone through these
 14:45:19 19 documents, the information that she was providing was being
 14:45:22 20 used in the sort of way that information that informers - -
 14:45:26 21 - ?---The alternative definition of a community source who
 14:45:28 22 provides information that I could have argued if I got into
 14:45:31 23 trouble for not registering - - -
 24

14:45:32 25 You could have, you'd be splitting hairs though, wouldn't
 14:45:35 26 you?---I agree, I'm splitting hairs.
 27

14:45:38 28 All right. Now, if we then go to 19 September 2005,
 14:45:46 29 there's a Purana update. What this is about, if you have a
 14:45:56 30 look, is that there's a reference to - just excuse me.
 14:46:06 31 Certainly at the very bottom there's a reference to
 14:46:09 32 Operation Pedal, there's a reference to - so [REDACTED] has
 14:46:22 33 now appeared before Justice King and he's entered a plea of
 14:46:25 34 guilty in relation to [REDACTED] do you see that?---Yeah, I
 14:46:33 35 was looking for [REDACTED] Yes, yes.
 36

14:46:39 37 You've got a bail hearing for [REDACTED] bail hearing's
 14:46:51 38 adjourned to a date to be fixed?---Yep.
 39

14:46:55 40 Then you've got hearings at the ACC related to moneys paid
 14:46:59 41 by associates of Williams. That is a reference I suppose
 14:47:03 42 to - would that be Pedal as well?---No, I think Pedal was
 14:47:11 43 more centred on Solicitor 2.
 44

14:47:13 45 That's down the bottom, we see that, point number 3 down
 14:47:16 46 the bottom?---I think - I tell you I'm stretching my
 14:47:20 47 memory, but I think we got the bookmakers in that paid

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14:47:24 1 Barrister 1.
2
14:47:26 3 Then you've got a report was forwarded to the Law Institute
14:47:30 4 regarding the professional conduct of Solicitor 2, do you
14:47:36 5 see that?---I do.
6
14:47:37 7 That's something that I raised previously and quite clearly
14:47:42 8 that seems to be a pro-active step on the part of police,
14:47:47 9 Purana, to bring to the attention of the professional body,
14:47:54 10 the Law Institute, the conduct of a legal
14:47:58 11 practitioner?---Well look it certainly seems by that
14:48:00 12 sentence - - -
13
14:48:01 14 Yes?---I wasn't aware we did that. That's probably
14:48:04 15 something Mr Wilson or one of his crew did.
16
14:48:08 17 In any event that seems to be what occurred?---Yeah, yep.
14:48:11 18 But we had some pretty clear evidence against her, I would
14:48:15 19 have thought, if you're trying to make the comparison.
20
14:48:20 21 What I'm simply putting to you, Mr Bateson, is that if
14:48:24 22 there are concerns about the conduct of a legal
14:48:27 23 practitioner, Victoria Police know that there are avenues
14:48:30 24 available?---I think if we know people are committing
14:48:34 25 criminal offences we do. I think there's different levels
14:48:38 26 to concerns to - - -
27
14:48:43 28 I understand what you're saying. What you say is, "Well,
14:48:46 29 look, if it's more serious we might do it. If it's less
14:48:50 30 serious we might not do it"?---Yeah. Criminal offending,
14:48:55 31 money laundering - - -
32
14:48:55 33 The simple question I put to you is that it was something
14:48:59 34 police were aware of?---It appears so from that, yes.
35
14:49:09 36 There's a reference to a further meeting held between
14:49:15 37 Austrack and investigators regarding the activities of
14:49:19 38 Solicitor 2. You would have been, albeit you may not
14:49:24 39 recall now, because of your interest and your discussions
14:49:27 40 with Ms Gobbo, and the fact that Mr L'Estrange was working
14:49:31 41 in your team, you would have been generally across these
14:49:35 42 matters, maybe not down to the minutiae but you would have
14:49:45 43 been generally aware of these matters, I take it?---Look,
44 I'm not surprised they contacted Austrack. I don't have a
14:49:46 45 memory of being up to date with that but it's a pretty
14:49:48 46 standard line of investigation, they record suspicious
14:49:51 47 transactions at casinos. So I'm not surprised. Was I

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14:49:54 1 aware of it then? I don't know. I don't have a memory of
 14:49:57 2 it now.
 3
 14:49:58 4 Then 24 September and 3 October further updates by Purana
 14:50:05 5 investigating and analysing information pertaining to
 14:50:09 6 Operation Pedal and money laundering by Solicitor 2, do you
 14:50:13 7 see that?---Yes.
 8
 14:50:19 9 10 October 2005, a Purana update. Solicitor 2. If we go
 14:50:29 10 to the fifth arrow I think. "Solicitor 2 is requesting
 14:50:32 11 protection regarding her giving evidence in the matter of"
 14:50:37 12 I think it's [REDACTED] we're calling him and [REDACTED]
 14:50:43 13 [REDACTED] and "Solicitor 2 has been charged with contempt of
 14:50:46 14 court for refusing to give evidence", do you see
 14:50:48 15 that?---Yes.
 16
 14:50:49 17 And you recall that there was a fairly jaundiced view that
 14:50:56 18 Purana had of Solicitor 2's claim to [REDACTED] It
 14:51:01 19 was felt that that was some sort of attempt to get out of
 14:51:04 20 giving evidence, is that what the view was?---No, I think
 14:51:06 21 we ended up [REDACTED] because we saw
 14:51:10 22 it as an attempt - our refusal as possibly a defence for
 14:51:18 23 her refusing to give evidence against these associates of
 14:51:21 24 hers.
 25
 14:51:24 26 You saw your refusal to provide it as possibly - - -
 14:51:27 27 ?---She was going to use it to refuse to give [REDACTED] [REDACTED]
 14:51:31 28 [REDACTED] She was going to say, "I can't do it, I'm
 14:51:33 29 going to be killed". So I think in the end, from my
 14:51:35 30 memory, we [REDACTED] her, "All right, if you want [REDACTED]
 14:51:38 31 [REDACTED] you can have it", which of course she refused.
 14:51:42 32 She was found guilty of contempt.
 33
 14:51:43 34 So you say that she was [REDACTED]?---I reckon she
 14:51:47 35 was, yeah.
 36
 14:51:49 37 She was claiming that she was in fear of her life because
 14:51:52 38 if she gave evidence against these people then that might
 14:51:58 39 well place her at risk?---That was her view.
 40
 14:52:02 41 Did you not share her view?---I think my view at the time
 14:52:06 42 was she was never going to give evidence against those
 14:52:09 43 people. She was making the refusal to, to put in the
 14:52:18 44 colloquialism, to maintain the code of silence in the
 14:52:22 45 underworld associates.
 46
 14:52:23 47 That's your view, but my question was, was it a reasonable

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14:52:27 1 belief that a person might have that if she gave evidence
 14:52:30 2 against these - well people who be had convicted of
 14:52:33 3 multiple murders, she might well be putting her life at
 14:52:39 4 risk?---If that was a genuine concern, yeah. But I - it
 14:52:46 5 was - she was never going to do that.
 6
 14:52:49 7 Mr Bateson, you seem to be the arbiter of whether someone's
 14:52:53 8 at risk. You say it really wasn't, I don't think there was
 14:52:57 9 any risk and therefore - - - ?---I don't think there was
 14:53:00 10 any risk because she was never going to give the evidence.
 11
 14:53:02 12 You don't know. But do you agree with the proposition that
 14:53:06 13 the two people on trial there were very, very dangerous
 14:53:09 14 people?---Yep, they were murderers for sure.
 15
 14:53:13 16 What you've said is, "The reason why we have protected
 14:53:19 17 Gobbo is because I was concerned that her life would be
 14:53:22 18 worth nothing if it became apparent that she was working
 14:53:26 19 against Carl Williams", correct?---I'm not sure that I've
 14:53:31 20 agree with that. What I have always said, that if it
 14:53:35 21 became known her role as a barrister, advising [REDACTED]
 14:53:39 22 become known, Carl Williams and others would be a threat to
 14:53:44 23 her.
 24
 14:53:44 25 But I mean isn't the reality - you've said time and time
 14:53:48 26 again, "Look, he was always going to roll. He was always
 14:53:51 27 going to plead. Gobbo had nothing to do with it", right,
 14:53:57 28 that's the position that you take, correct?---Correct.
 29
 14:54:00 30 That's easy enough to put that word out, for you,
 14:54:05 31 investigators?---You've got to understand these
 14:54:07 32 people - - -
 33
 14:54:07 34 No, do you agree with my proposition, that you can put that
 14:54:11 35 out?---Oh, yeah, I can.
 36
 14:54:13 37 Let's also take this fact into consideration. Gobbo
 14:54:17 38 appeared for Lewis Moran, arch enemy of Carl Williams, got
 14:54:21 39 him out on bail on one view, in the papers, a lot of press
 14:54:28 40 about it. You might think also that that's something that
 14:54:31 41 would put her life at risk?---And it did. Didn't she
 14:54:36 42 receive, get Andrew Veniamin showing up at her door with a
 14:54:39 43 gun ?
 14:54:39 44
 14:54:39 45 Subsequently did she not continue to act for them? There
 14:54:43 46 was a bail variation?---You might be able to get away with
 14:54:45 47 that once, you might not be able to do it again.

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1
 14:54:48 2 So you're very concerned about her, not so concerned about
 14:54:51 3 Solicitor 2?---No, at this point I guess for context we had
 14:54:57 4 over 100,000 hours of listening device material, 22,000
 14:55:06 5 telephone intercepts. We knew a little bit about these
 14:55:09 6 people, we knew a little bit about their motivations and
 14:55:12 7 their risks. So I was not worried about Solicitor 2.
 8
 14:55:14 9 All right. Then if we go to [REDACTED]. I think there was
 14:55:27 10 an update, there was hearing in the Supreme Court regarding
 14:55:30 11 the contempt proceeding against Solicitor 2 and that was
 14:55:33 12 adjourned for the judge to consider his verdict. Then she
 14:55:37 13 appeared on [REDACTED]. I think; is that right?---I'd have
 14:55:42 14 to check but willing to accept the date if you've got it in
 14:55:46 15 front of you.
 16
 14:55:47 17 If we can go to [REDACTED] 2005, Purana update?---Yes, I've
 14:55:53 18 got it in my chronology.
 19
 14:55:56 20 Okay. Then if we move on to [REDACTED] it appears that
 14:56:03 21 she was convicted. On [REDACTED] there was no penalty
 14:56:11 22 over the contempt matters; is that right?---That's my
 14:56:12 23 memory of it, yes.
 24
 14:56:14 25 Okay. Now it's quite clear at the end of this period of
 14:56:30 26 time that you know that Ms Gobbo is an informer actively
 14:56:40 27 providing information to the police?---Look, I know she's
 14:56:44 28 been registered.
 29
 14:56:45 30 Yes?---What she's doing beyond that I'm not aware of.
 31
 14:56:50 32 Did you know what the information that she was providing
 14:56:55 33 was about? Did you have a general idea about that?---I
 14:57:01 34 always thought it was phase 2 of Purana.
 35
 14:57:04 36 Yes?---I don't know why I assumed that, I just did. I
 14:57:07 37 think it was because, you know, that was going through Jim
 14:57:12 38 O'Brien's leadership.
 39
 14:57:13 40 Yes?---But I didn't know what she was - and certainly I
 14:57:18 41 cannot recall a time when, apart from when I was updated
 14:57:21 42 later on, a time coming back to me with information about
 14:57:29 43 the cases I was working on.
 44
 14:57:31 45 You say that you've heard or you've seen ICR material; is
 14:57:36 46 that right?---A few, yeah.
 47

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14:57:38 1 Those ICRs have been shown to you for the purposes of
 14:57:41 2 preparing to give evidence; is that right?---I think it was
 14:57:43 3 really early in the year.
 4
 14:57:45 5 What you did know is that when she spoke initially to the
 14:57:48 6 SDU she indicated that you were one of the people that she
 14:57:52 7 spoke confidentially to?---I don't recall that in an ICR
 14:57:59 8 but I accept that to be true.
 9
 14:58:01 10 Right. If we go to the ICRs at p.14, one of the things
 14:58:08 11 that it was said that she was particularly concerned about
 14:58:12 12 were police diary notes which had been censored and may be
 14:58:17 13 revealed at trial and disclose her actions. That's
 14:58:20 14 consistent with your understanding of matters that she had
 14:58:23 15 discussed with you, do you agree with that or not?---Yes.
 16
 14:58:32 17 Then the next thing I want to ask you about is [REDACTED]
 14:58:38 18 and I've just taken you to the time where [REDACTED] has in
 14:58:46 19 effect decided to plead guilty. You recall that,
 14:58:49 20 understand that?---Yeah, my memory of it and my
 14:58:54 21 recollection of it he was pressured to plead [REDACTED] by
 14:58:59 22 [REDACTED] and possibly a witness too, but by predominantly
 14:59:06 23 [REDACTED]
 24
 14:59:06 25 In any event, that's what he did, he entered the plea.
 14:59:07 26 Then you hear that in about early 2006, you hear from I
 14:59:13 27 think Mr Horgan - - - ?---He writes a letter to Mr Horgan.
 28
 14:59:16 29 That he'd written a letter to Mr Horgan and indicated that
 14:59:19 30 he wanted to speak to police?---Yes. I'm not sure if he
 14:59:24 31 wanted to talk to police but he wanted to cooperate.
 32
 14:59:27 33 Wanted to cooperate. And that was the first that you'd
 14:59:28 34 heard about that?---Yeah, I was surprised I must admit.
 35
 14:59:33 36 You weren't involved in the initial stages but you
 14:59:37 37 understood that he had approached Mr Horgan and then - - -
 14:59:43 38 ?---I was actually overseas making some inquiries at the
 14:59:46 39 time. I got told about the letter when it was delivered.
 40
 14:59:50 41 Yes?---But I wasn't involved in the initial meeting I
 14:59:54 42 think.
 43
 14:59:55 44 Okay?---With the DPP but I was - - -
 45
 14:59:59 46 In any event there was a concern about, or he had a concern
 15:00:01 47 about his lawyer, [REDACTED], and he wanted new

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15:00:04 1 lawyers?---Yep.
2
15:00:05 3 And he terminated the services of [REDACTED]. There was
15:00:14 4 initially suggestions of another solicitor by the name of
15:00:19 5 [REDACTED], were you aware of that?---I don't think I
15:00:23 6 have a note of that, do I?
7
15:00:25 8 We've got a note to the effect that Mr Ryan was aware that
15:00:30 9 he'd suggested [REDACTED], although Mr Ryan had been
15:00:35 10 told by Mr Horgan that there was a conflict there and so it
15:00:38 11 wasn't appropriate for [REDACTED] to act for him. Were you
15:00:41 12 aware of that, having discussions with Mr Ryan about
15:00:43 13 that?---No.
14
15:00:44 15 No. Does that surprise you, that there was suggestions
15:00:50 16 coming from either the OPP or Mr Horgan that a particular
15:00:56 17 solicitor really shouldn't be acting for this particular
15:00:59 18 witness because he had a conflicted situation?---No, I'm
15:01:02 19 not surprised. I mean we see illustrations of that in my
15:01:06 20 supplementary statement as well. I guess I would have
15:01:09 21 expected, if those things were live issues, that they'd be
15:01:14 22 dealt with and raised by someone like the OPP.
23
15:01:18 24 Yep?---So I don't think I'm surprised.
25
15:01:22 26 So it doesn't surprise you, in your experience, that the
15:01:25 27 OPP might say, "Well look, no that person isn't appropriate
15:01:29 28 or shouldn't be acting because there's a conflict there and
15:01:32 29 another person should be engaged"?---I don't know that I've
15:01:36 30 had experience of that necessarily, but what I would say is
15:01:38 31 that, you know, the Senior Crown Prosecutors are very
15:01:43 32 experienced people and they're the proper people to raise
15:01:49 33 any concerns around conflict I would have thought.
34
15:01:52 35 Certainly in circumstances where they know all of the
15:01:54 36 issues, when those issues have been brought to their
15:01:59 37 attention, they may well be in a position then to make that
15:02:01 38 call?---Yeah, and in some ways I'm pleased because I, you
15:02:05 39 know, I suspected that these conversations probably were
15:02:08 40 going on but no one needs to tell me, a Detective Sergeant,
15:02:12 41 about them.
42
15:02:13 43 No, but can I ask you this. If you've got - you know what
15:02:16 44 a conflict is. I mean in your training you talk about,
15:02:19 45 you're told about conflicts and you've got to be aware of
15:02:22 46 conflicts. As a general proposition police are told about
15:02:25 47 this?---Yeah, I mean, you know, it's differing objectives,

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15:02:30 1 differing interests can create a conflict so, yeah, so I
15:02:33 2 understand that as a basic concept.
3
15:02:34 4 You know enough conflicts to say, "Look, a bit of a problem
15:02:38 5 with Gobbo representing [REDACTED] because she's been
15:02:43 6 involved in representing [REDACTED]", and even if you don't
15:02:48 7 have an ability to do anything about it, you might be
15:02:53 8 inclined to say to someone else, "What do you think about
15:02:57 9 this? Let's give you the information which might put you
15:03:00 10 into the position where you can make a proper decision".
15:03:03 11 You could at least do that sort of thing, couldn't
15:03:06 12 you?---Look, I don't think, looking back at that time, I
15:03:09 13 just can't see myself sitting in the Director of the OPP's
15:03:13 14 office, or indeed a Senior Crown Prosecutor and saying,
15:03:18 15 "Hey listen, I think this is an issue that you haven't paid
15:03:21 16 enough respect or due attention to", even if I thought
15:03:24 17 about it. And I'm not saying that I did think about it, I
15:03:28 18 don't recall it. But those sorts of things, you know, as
15:03:31 19 we see through my supplementary statement, are best dealt
15:03:34 20 with by people who are much more familiar.
21
15:03:38 22 All right?---With conflict in legal circumstances.
23
15:03:46 24 Would you say then that Mr Ryan, if he sat down and had a
15:03:48 25 discussion with Mr Horgan about it, then he might be the
15:03:51 26 person to have that discussion?---They might have had those
15:03:54 27 discussions, I don't know.
28
15:03:55 29 Can I ask you this: if you perceived that investigatively
15:03:59 30 speaking it wasn't in your best interests, that is as
15:04:02 31 investigators, for a particular lawyer to be appearing,
15:04:06 32 because it may well hamper the outcome of the
15:04:10 33 investigation, you would certainly raise it in that case,
15:04:12 34 wouldn't you?---Depends on the scenario, I guess. I'm not
15:04:19 35 sure. You know, take, for instance, if I can go back to
15:04:25 36 that proposal, if I knew, for instance, Solicitor 2, we'd
15:04:32 37 captured her on a listening device revealing confidential
15:04:36 38 information that had been served to her as a part of a
15:04:39 39 brief and that was given to Tony Mokbel and subsequently
15:04:41 40 used to murder someone.
41
15:04:43 42 Yes?---Then I might say, "Hang on, we better not give any
15:04:48 43 more information to Solicitor 2."
44
15:04:54 45 I'm not talking about conflict of interest, not - I'm not
15:05:02 46 talking about - - ?---That, I thought, is what you were
15:05:04 47 referring to.

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BATESON XXN - IN CAMERA

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1
 15:05:05 2 All right. In any event, what occurs is that on 13
 15:05:10 3 February [REDACTED] starts to make statements, you
 15:05:14 4 understand that?---Which date, sorry?
 5
 15:05:16 6 13 February 2006?---Yes.
 7
 15:05:21 8 And pretty soon there's scuttlebutt going around the
 15:05:26 9 prison, you accept that that's likely?---Yes.
 10
 15:05:28 11 And it seems that on 13 February Gobbo's heard from
 15:05:33 12 Solicitor 2 that [REDACTED] has rolled, likely in relation to
 15:05:39 13 [REDACTED] and that might be a matter that
 15:05:42 14 would concern [REDACTED], [REDACTED] and [REDACTED] You may or
 15:05:49 15 may not be aware of that information but do you accept that
 15:05:52 16 as a proposition, that that is likely to have
 15:05:58 17 occurred?---It's certainly my belief that as soon as we
 15:06:02 18 took him out of the gaol it would have been pretty widely
 15:06:05 19 known.
 20
 15:06:06 21 Yes?---Or suspected. So it coincides. I'm not sure that I
 15:06:10 22 knew any of that.
 23
 15:06:12 24 Yes?---But it's on 19 February that we get a call from her
 15:06:15 25 and Jim Valos.
 26
 15:06:18 27 Yes?---And [REDACTED] wants to cooperate as well.
 28
 15:06:24 29 Can I ask you this then: it appears that on Thursday 16
 15:06:29 30 February 2006 [REDACTED] has called Ms Gobbo and Gobbo
 15:06:36 31 considered that he too, that is [REDACTED] may too want to
 15:06:40 32 roll, although he hadn't said so. But her intention was to
 15:06:44 33 see him over the weekend, that is on 19 and 20 February,
 15:06:48 34 with Mr Valos. We might put up ICR number p.155. Can we
 15:07:18 35 see there that down the bottom, we see that, this is on 16
 15:07:24 36 February, "[REDACTED] rang this morning, he was standing
 15:07:30 37 next to [REDACTED], therefore coded talk but may want to
 15:07:35 38 roll and wants to see Gobbo this weekend and she'll do so
 15:07:38 39 with Jim Valos". Do you see that?---Yes.
 40
 15:07:42 41 That's the information we've got and I'm going to take you
 15:07:46 42 through some of these ICRs. Handlers have been told that
 15:07:49 43 Gobbo receives a call from [REDACTED] and that scuttlebutt that you
 15:07:56 44 talked about has well and truly been circulating and
 15:08:01 45 there's coded talk and he may want to roll, although
 15:08:03 46 Gobbo's not told that, do you see that?---I'm not surprised
 15:08:08 47 to see that. I reckon as soon as he heard that he knew he

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BATESON XXN - IN CAMERA

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15:08:12 1 had to get on board. Because I think there's one step back
15:08:15 2 to this as well, and I think that's raised in, I refer to
15:08:19 3 it as the conflict hearing.
4

15:08:20 5 Yes?--Where Barrister 1 raises the fact that they want to
15:08:28 6 have a joint conference to clear the air because someone
15:08:33 7 has put forward the proposition that [REDACTED] is going
15:08:36 8 to roll and make statements. So not only has he got
15:08:40 9 [REDACTED] he's got the possibility of [REDACTED] and quite
15:08:46 10 possibly [REDACTED]. So poor old [REDACTED] is going to
15:08:51 11 be the only one in the dock. So for him to ring his
15:08:54 12 barrister and say, "Hang on, I better get on this train
15:08:57 13 quick smart", I'm not surprised.
14

15:08:59 15 Let's not get ahead of ourselves. What's clear is that
15:09:04 16 there's coded - you say you're not surprised, but that's
15:09:08 17 what's occurred. In any event, she calls him and he may
15:09:11 18 want to roll, but it's only coded talk, but she hasn't been
15:09:15 19 able to speak to him and she doesn't have instructions at
15:09:19 20 this stage, she's going to see him with her solicitor on
15:09:21 21 the weekend. That's the effect of that anyway, isn't
15:09:24 22 it?--Yeah, apart from the fact he rang her, yep.
15:09:25 23

15:09:26 24 Then what happens next is this: the following day, if we go
15:09:30 25 to p.157, this is 17 February 2006. Keep going. Keep
15:09:50 26 going, over the next page. 17th of the 2nd. This is the
15:09:57 27 following day, the Friday. I'm sorry - yeah, the Friday.
15:10:11 28 She calls again and she's already spoken to you?--Yeah, I
15:10:15 29 get a call from her on the 19th.
30

15:10:17 31 No, you don't?--Oh.
32

15:10:20 33 If we accept this, she's already been on the phone to you
15:10:23 34 on the 17th before she's even been out with Valos to see
15:10:31 35 [REDACTED] and get instructions, she's already been on the
15:10:34 36 phone to you to discuss him possibly rolling and she says,
15:10:41 37 it's written here, whether it's her or otherwise, "Source
15:10:44 38 has an association with Bateson regarding [REDACTED] doing
15:10:49 39 the same thing". What I'm putting to you here is that even
15:10:58 40 before - the very next day, it might even be on the same
15:11:02 41 day, as soon as she gets that coded talk from [REDACTED]
15:11:07 42 before she even goes out and speaks to him she's on the
15:11:10 43 phone to you?--I don't accept that. I mean that would
15:11:13 44 have been a significant circumstance that I would have
15:11:17 45 taken a note of. I do take the note on the 19th though,
15:11:23 46 don't I?
47

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15:11:24 1 You do?---"Received call from Nicola, arranged meeting at
 15:11:28 2 house. Nicola Gobbo present". So - yeah, see, then it
 15:11:36 3 follows quite quickly, the next day we go to the OPP, et
 15:11:40 4 cetera. It would have been a significant thing that
 15:11:42 5 wouldn't have waited, I wouldn't have thought.
 6
 15:11:46 7 That may be right but what I'm suggesting to you is that
 15:11:51 8 she has told her - she's called by the source, and the
 15:11:56 9 handlers are taking contemporaneous notes of telephone
 15:12:00 10 calls and so forth and that's what we've learnt throughout
 15:12:03 11 this whole process. They've called her. Sorry, she's
 15:12:07 12 called them. They've called back and it says that the
 15:12:09 13 source has spoken to Stuart Bateson and so on?---Yeah.
 14
 15:12:17 15 It may well be the case that you simply haven't made a note
 15:12:20 16 of it or you've noted it at a later stage, but it appears
 15:12:24 17 to be the case that this has occurred on this day?---I
 15:12:27 18 don't accept that because I reckon that would be something
 15:12:30 19 that I would - it's not just a casual conversation, if
 15:12:34 20 she's told me that.
 21
 15:12:36 22 I'm getting approached by Mr Chettle?---I don't know if
 15:12:46 23 it's of much consequence, but I would have thought I would
 15:12:49 24 have made a note and I probably wouldn't have had the next
 15:12:53 25 day off, which I did.
 26
 15:12:59 27 Okay, well what about this, that she'd spoken to you
 15:13:02 28 previously about him rolling?---I don't know, maybe she did
 15:13:08 29 in passing. Certainly - - -
 30
 15:13:13 31 Without any suggestion of instructions she'd raised with
 15:13:15 32 you the possibility of him rolling?---I may have even
 15:13:18 33 raised it with her. I mean I think I've said previously
 15:13:20 34 that it was something that I thought I always had a chance
 15:13:25 35 with him, that he would roll over.
 36
 15:13:27 37 Right?---So whether that came up in a conversation with
 15:13:30 38 her, I don't know.
 39
 15:13:31 40 That might be more accurate because if we go down it says
 15:13:36 41 this, "[REDACTED] rolling over may include Gobbo's current
 15:13:41 42 clients. [REDACTED] will want to know what's on offer. Gobbo
 15:13:47 43 believes it would be wrong not to help him. Gobbo trusts
 15:13:53 44 Jim Valos looking after [REDACTED] at present. Problem is with
 15:13:57 45 Solicitor 2 she's not helping anyone and she's happy to
 15:14:00 46 tell Bateson what's going on. The last contact with him
 15:14:03 47 was in December/January". So that may well be support the

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BATESON XXN - IN CAMERA

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15:14:08 1 position that you've got, that the previous year when you
 15:14:13 2 had been speaking to her there had been this discussion
 15:14:17 3 with her about him rolling. That might be what it's
 15:14:21 4 about?---Yeah, maybe. You know, I can imagine that I may
 15:14:28 5 have floated it. Certainly it was my view that we always
 15:14:32 6 had a chance with him. Not so with [REDACTED]. That came
 15:14:37 7 out of the blue for me. But I always thought [REDACTED] was
 15:14:40 8 a chance.
 9
 15:14:41 10 Right. What about the comment that she makes that the
 15:14:44 11 concern, there's a concern that it may include some of her
 15:14:51 12 current clients, would that be of a concern, that conflict
 15:14:55 13 situation?---I don't know if that was passed on to me. I
 15:15:02 14 guess that's another situation that she would have to
 15:15:06 15 navigate.
 16
 15:15:07 17 And not the police though, they wouldn't need to worry
 15:15:09 18 about that?---I don't know. It depends on the
 15:15:17 19 circumstances. Thankfully I'm not sure that that was
 15:15:25 20 something that I had to navigate. I'm not sure.
 21
 15:15:30 22 Then what you say is you receive a telephone call from
 15:15:35 23 Ms Gobbo on 19 February asking that you meet her with her
 15:15:46 24 instructor at Mr Valos' office that day?---Yep.
 25
 15:15:52 26 Clearly enough Ms Gobbo, you understand, is the barrister
 15:15:56 27 and Mr Valos is the solicitor acting for [REDACTED]
 15:16:00 28 correct?---Yes.
 29
 15:16:03 30 At that stage you're obviously aware that Ms Gobbo is a
 15:16:09 31 human source, an informer?---I know she's registered.
 32
 15:16:12 33 So the answer is yes to my question?---Yeah, I guess that's
 15:16:18 34 fair. I just don't know what she's talking about.
 35
 15:16:22 36 You know that she'd acted for Williams in the past?---Yes.
 37
 15:16:30 38 And you know certainly that she'd acted for [REDACTED]?---Yes.
 39
 15:16:36 40 I note the time, Commissioner, do you want to have the
 15:16:38 41 afternoon break?
 15:16:38 42
 15:16:38 43 COMMISSIONER: Yes, all right then. We'll have the
 15:16:41 44 mid-afternoon break.
 45
 46 (Short adjournment.)
 47

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BATESON XXN - IN CAMERA

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15:33:38 1 WITNESS: Commissioner, just before we start, would you
 15:33:41 2 mind if I remove my jacket?
 15:33:43 3
 15:33:43 4 COMMISSIONER: No, not at all. Thank you for asking but
 15:33:47 5 there's no need to ask.
 15:33:49 6
 15:33:50 7 MR WINNEKE: It is quite stuffy in here, Commissioner.
 15:33:52 8
 9 COMMISSIONER: It is, it is. It's very crowded and I don't
 15:33:52 10 the Commission is really meant for this many people and I
 15:33:53 11 think it's a warm day as well. I should have said too,
 15:33:56 12 Mr Bateson, if you want to have a break at any time let me
 15:33:59 13 know?---Thank you.
 15:34:02 14
 15:34:02 15 MR WINNEKE: All right. You have the meeting at Mr Valos'
 15:34:16 16 office, is that right?---Yes.
 15:34:18 17
 15:34:28 18 You say you're at the office of Jim Valos and Nicola
 15:34:35 19 Gobbo's present and, "[REDACTED]" is expressing his desire to
 15:34:39 20 see us regarding the murders of "[REDACTED]", shooting
 15:34:46 21 of "[REDACTED]" and the murder of "[REDACTED]", is that
 15:34:51 22 right?---Correct.
 15:34:52 23
 15:34:54 24 "[REDACTED]" was obviously the subject of an attempt, well
 15:34:58 25 probably an attempt on his life which was unsuccessful is
 15:35:00 26 that right, I think around "[REDACTED]" of 2002?---He was "[REDACTED]"
 15:35:03 27 "[REDACTED]" but yes, survived.
 15:35:06 28
 15:35:13 29 I suppose it's a relatively short meeting at 6.30, and you
 15:35:18 30 clear the office at 5 past 7. Subsequent to that you go
 15:35:26 31 and see him and you go with Detective Acting Inspector
 15:35:31 32 O'Brien, is that right?---Yes. Yes, on the "[REDACTED]".
 15:35:38 33
 15:35:48 34 You "[REDACTED]" conversation. I take it "[REDACTED]" to
 15:35:54 35 him?---"[REDACTED]" to him, yes.
 15:35:56 36
 15:35:57 37 And we've "[REDACTED]" that and it's
 15:36:06 38 VPL.0005.0062.0079. I won't trouble you with all of it,
 15:36:11 39 there are a couple of matters I want to raise with you.
 15:36:13 40 Effectively you go out and see - you say on p.3, perhaps
 15:36:28 41 p.1, perhaps we can go back to p.1, you introduce Jim
 15:36:33 42 O'Brien to "[REDACTED]" as the Inspector in charge of the Task
 15:36:37 43 Force. And you say, "You wanted to see us?" And his first
 15:36:48 44 question to you over the page on p.2 is, "How do you give a
 15:36:52 45 bloke "[REDACTED]" when he's alleged "[REDACTED]"?"
 15:36:57 46 One assumes that's a reference to "[REDACTED]", I take it, is
 15:37:01 47 it?---Yes.

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15:37:02 1
 15:37:05 2 You say, "Well, you don't get to - you can ask those
 15:37:11 3 questions if you like but you don't get answers to those
 15:37:14 4 questions". He says, "I know". So there's a bit of sort
 15:37:18 5 of he's feeling it out and seeing what's what, and there's
 15:37:20 6 a lot of toing and froing during the course of this
 15:37:23 7 introductory meeting, would that be fair to say?---Yeah,
 15:37:28 8 he's an excitable person, [REDACTED], so it's sometimes a
 15:37:34 9 little bit hard to follow.
 15:37:37 10
 15:37:37 11 There's suggestions down the track that he speaks in
 15:37:40 12 riddles and it's not all together clear exactly what he's
 15:37:47 13 saying.
 15:37:48 14
 15:37:48 15 COMMISSIONER: Just for the record this is Exhibit 475.
 15:37:51 16
 15:37:51 17 MR WINNEKE: Thanks Commissioner. You say, this is p.3,
 15:37:53 18 "We're here because you asked to see us. What have you got
 15:37:57 19 to say to us really? That's what we're here for. We've
 15:38:02 20 been told you want to assist". He says, "I want to assist,
 15:38:07 21 right, but at the same time who are you going to believe,
 15:38:10 22 him or me? That's what he's stressing over and I'm being
 15:38:15 23 straight up with you". In other words he doesn't accept
 15:38:18 24 the version that [REDACTED] has given and that seems to be a
 15:38:21 25 constant point that he's making throughout your various
 15:38:26 26 discussions with him, is that right?---Yes. I don't think
 15:38:29 27 he knows at this point though what he's said, does he? I
 15:38:34 28 think this is before statement time.
 15:38:35 29
 15:38:36 30 No doubt what he knows is what he's heard through the
 15:38:39 31 prison system. It might be either through Nicola Gobbo or
 15:38:46 32 Valos or other people who he is sharing his accommodation
 15:38:52 33 with, correct?---I'm not sure that Nicola Gobbo or Jim
 15:38:59 34 Valos would know what [REDACTED] is saying at this point.
 15:39:02 35 But I do agree that once someone is removed from the prison
 15:39:06 36 in the circumstances that they're held in, that absence is
 15:39:10 37 noted and probably they start to think what's happened and
 15:39:13 38 they guess correctly, if they're not directly told by
 15:39:16 39 someone within the prison.
 15:39:19 40
 15:39:20 41 Yeah, all right. Okay. Ultimately what we see is that, if
 15:39:31 42 you go to p.33 of the document, Mr O'Brien cuts to the
 15:39:43 43 chase, he says, "Look, we've got to be able to see what
 15:39:48 44 you've got to say first and it's got to be, as we say, all
 15:39:52 45 or nothing. It's everything out in the open, being upfront
 15:39:55 46 with it and saying that's how it is". And he says that he
 15:40:01 47 knows that and - not only him, a lot of people like him

would express it. What he says is, what you say is then, "We'll probably come down if you make contact through your solicitors that you want to see us. We'll come down and before we take the statements we'll move you. We'll say well tell us everything and then I'll make an assessment whether I take the statements or not". And he says, "Oh, now, okay, now, do this right, if you sort of indicate to my solicitors that I might be able to [REDACTED] Just hang on a minute, go back to the OPP, I'm not going to do my gaol time in the slot, in the fucking", and I assume he's talking about being in some sort of protective situation?---Yes.

Mr O'Brien says, "There's no discussions [REDACTED] or anything else. We can see what you say first, that's how it works. We can't hold out an inducement for you to say something, right, that would be wrong of us to do that. It's like saying you can walk out the door and we're going to protect you forever if you tell us this, this and everything else. It's wrong. You've got to tell us what you can say first. He says, "I'll tell you, I just want to be in gaol", effectively what he's saying is, "I don't want to be in gaol". You say, there's "No way we're going to tell you something then you're back with me later. I mean the thing is you've got to lay out what you've got. It's going to be compared with other evidence and we have and if you tell the truth then it will be assessed, sent to the OPP and they can negotiate with your solicitors on what sentence, and [REDACTED] you may receive". And you say, "I want you to have the solicitors involved from the very start. That way you know we're telling you the truth", and [REDACTED] says, "While I think of it, see this is all knew to me"?---Sorry, hang on. Sorry. Okay, got you.

"I thought there would be solicitors here and that's, that's it, that's what I said to Jim. Go and see the prosecutors. He reckons I spoke with Stuart Bateson. Keep this between us, right, nothing against you, you understand?" You say, "We're not saying anything to them. What we're saying to you is, you speak to your solicitors, probably be a good idea if you make that call before you went back to wherever, if you're going to go back in with [REDACTED] so you can have a frank discussion. Can you say to Jim", that will be a reference to Jim Valos I assume, won't it? "To come down and see me, can you do that for me, Mr Bateson?" Correct?---Yes.

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15:43:00 1 And you say, "I can. My advice to you is you're going to
15:43:04 2 need to be frank and full with your solicitors. You're
15:43:07 3 going to have to". And he says, "Hang on, hang on, that's
15:43:11 4 why I want you here, right. That's what I want to tell
15:43:14 5 him. Jim told me to be frank". That's a reference to Jim
15:43:19 6 Valos, one assumes. "And I'm gonna tell Jim straight out.
15:43:27 7 Yeah. And frank", that's a reference to be frank. "Do you
15:43:36 8 trust him?", O'Brien says, "Do you trust him?" He says,
15:43:41 9 "Yeah, Jim's all right, Jim's the one who told me to
15:43:44 10 fuckin' roll". You say, "That's what we'll do. We'll get
11 him to come down. Might be able to come down on the
15:43:51 12 weekend, I don't know". So what's being effectively
15:43:54 13 discussed there is, firstly, he wants a solicitor or a
15:44:00 14 lawyer representing him whom he can trust. That seems to
15:44:06 15 be what he's about there, isn't it?---Yeah, I think that's
15:44:10 16 fair to say.

15:44:11 17
15:44:11 18 That's fair to say. And that's entirely understandable,
15:44:15 19 that a person who is in his position and who is going to be
15:44:19 20 making decisions which will effect the outcome of his life
15:44:23 21 for the next few years is going to be wanting to be relying
15:44:27 22 upon people in whom he can put his trust, that's fair to
15:44:31 23 say, is it not?---Yes.

15:44:32 24
15:44:32 25 And not just, not just a question of being in gaol for the
15:44:40 26 next few years, but if he is going to make a decision to
15:44:43 27 roll, he's going to be a hunted man potentially for the
15:44:47 28 rest of his life?---Correct.

15:44:48 29
15:44:49 30 So important decisions that he's got to make and he's got
15:44:54 31 to speak to people whom he trusts, do you accept
15:44:58 32 that?---Yes.

15:44:58 33
15:44:58 34 So then that's the first of it. This is sort of an
15:45:01 35 introductory discussion?---He does, I think it's earlier
15:45:09 36 on, but he does say in this conversation, excuse my
15:45:12 37 language, Commissioner, "I'm already fucked, I'm totally
15:45:16 38 fucked. I'm rolling, I'm just going to put my hand up".
15:45:20 39 That's in this transcript as well, isn't it?

15:45:24 40
15:45:25 41 It may well be. If you say it is it may well be. Perhaps
15:45:31 42 if I can take you to this page as well. At p.16 of the
15:45:36 43 transcript he says that he's stressed, p.16. And I might
15:45:53 44 say you tell him the discussions that you're having on this
15:45:56 45 day can't be used against him, to make that clear, and what
15:46:01 46 you want to get from him is information, but you're saying
15:46:04 47 to him, "Look, I can't use this against you". Although if

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15:46:08 1 you go to p.16 he says, "But I'll tell you what we've got
 15:46:12 2 to do, we've got to sit down and record all this and, you
 15:46:15 3 know, it's going to take a good amount of time, a good
 15:46:18 4 amount of time. That's our next step". He says, "You'll
 15:46:22 5 use this against me anyway". You say, "Well we can't use
 15:46:25 6 it against you [REDACTED]". You can't use it against him in
 15:46:37 7 court?---No.
 15:46:37 8
 15:46:38 9 But it can be used against him if it ends up on a brief of
 15:46:45 10 evidence or if it ends up on someone else's brief of
 15:46:49 11 evidence, then he's in all sorts of strife, isn't
 15:46:54 12 he?---That's something I accept, yes.
 15:46:55 13
 15:46:55 14 That's something you've got up your sleeve, it can be used
 15:46:59 15 that way?---Yes.
 15:47:00 16
 15:47:02 17 And also derivative use obviously if he gives the
 15:47:06 18 information you can go off and pursue avenues of inquiry
 15:47:10 19 that might enable you to gather other evidence which could
 15:47:14 20 be used against him in a court of law?---Yes.
 15:47:17 21
 15:47:18 22 He says, "I'm stressed mate, I need a solicitor or
 15:47:21 23 something, right". And that's not surprising, he needs
 15:47:24 24 someone on his side. "Well, you do need a solicitor. You
 15:47:28 25 do need some advice about this but I can tell you right now
 15:47:32 26 we can't use it against you unless we caution you and give
 15:47:37 27 you your rights and tape record it and all that sort of
 15:47:40 28 stuff, what we need". And he says, "What happens if THEY
 15:47:44 29 get you in the box and ask what happened with [REDACTED]". You say,
 15:47:48 30 "What am I going to say? I'm going to say I went down and
 15:47:53 31 spoke to him". He says, "Are you going to tell them what
 15:47:56 32 you spoke about? Not unless you ask, you're the only one
 15:48:02 33 who can waive that privilege". That may or may not be
 15:48:04 34 case. In any event, that's Mr O'Brien's view. Whether or
 15:48:10 35 not he's fucked, whether or not he thinks he's fucked,
 15:48:14 36 whether he said it, it may well be there, I'm not going
 15:48:18 37 through every page of it, what he is saying quite clearly
 15:48:21 38 is he wants to speak to a lawyer he can trust, and that's a
 15:48:25 39 reasonable request, correct?---Yeah. Yeah, I think that's
 15:48:32 40 fair. I'm not sure whether we're telling him to get one or
 15:48:35 41 whether he - - -
 15:48:36 42
 15:48:37 43 Perhaps to be fair. Here we go, p.5. "Tell me this,
 15:48:44 44 right", this is - - - ?---There it is.
 15:48:47 45
 15:48:47 46 He says, "I'm fucked, I'm confused, I'm fucked
 15:48:51 47 up"?---That's not the reference I had.

1
15:48:53 2 I'm sorry?---That wasn't what I was referring to.

15:48:56 3
15:48:57 4 No, no, it wasn't what you referring to. Then further down
15:48:57 5 he says, "(Indecipherable) right, youse can say what you
15:49:01 6 know, and I know for a fact (indecipherable) I'm already
15:49:06 7 fucked there, I'm totally fucked. As I said to you we
15:49:09 8 don't work on innuendo". That's the point you wanted to
15:49:13 9 make, that he says that, he has a view about his
15:49:16 10 position?---Yeah, I think he goes on to say, I think there
15:49:19 11 must be something else there, I've just got a note there
15:49:23 12 that, "I'm rolling, I'm just going to put my hand up".

15:49:26 13
15:49:27 14 Page 23?---I don't have the page number.

15:49:29 15
15:49:29 16 I think my junior is doing a word search?---Maybe the word
15:49:36 17 rolling.

15:49:36 18
15:49:36 19 I take it you've gone through this transcript to find all
15:49:39 20 the entries where he makes it plain as far as he's
15:49:43 21 concerned he's in all sorts of strife?---Yes.

15:49:47 22
15:49:47 23 Then if we go back to, if we go to p.31, after further
15:50:06 24 discussions you say, "Well look, if you talk around in
15:50:11 25 circles, unless you're prepared to tell us". He says,
15:50:14 26 "I've got to think of myself, do the [REDACTED] years, die
15:50:19 27 in gaol, right, or look after my family or do the time and
15:50:23 28 make sure my family's all right. How do I know you can't
15:50:27 29 use this against me?" You say, "Talk to your lawyers about
15:50:31 30 it, talk to your solicitors, they'll tell you", says
31 Mr O'Brien. He says here again, "I'm fucked up, right, I'm
15:50:33 32 fucked up. Can I get my solicitors back out here? If you
15:50:36 33 want to, yeah. Right, I'll get them back out here, talk to
15:50:41 34 them", you say. "So I think we've covered just about
15:50:46 35 everything between us, we've got everything we can out of
15:50:49 36 it"?---Okay.

15:50:51 37
15:50:51 38 Then what happens is on 23 February, p.163 of the ICRs, we
15:51:10 39 see that Ms Gobbo is having discussions with her handlers
15:51:16 40 about the situation with respect to [REDACTED] and she's
15:51:23 41 advised, this is at SDU issues, to stay away from [REDACTED]
15:51:28 42 and assisting him, I'm sorry, and him assisting police as
15:51:32 43 it will draw attention to her in her current position with
15:51:37 44 Tony Mokbel trial, et cetera, et cetera, and previously
15:51:40 45 acting for [REDACTED]. Do you see that?---Yes.

15:51:45 46
15:51:45 47 That may well be reasonably sensible advice because it's

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15:51:49 1 obviously perceived, at least by the handlers, that she's
15:51:55 2 really not in a position to be advising [REDACTED] in
15:51:58 3 circumstances where she's previously acted for [REDACTED]
15:52:02 4 do you agree with that?---Yeah, look, it certainly - they
15:52:06 5 seem to be advising her to stay away. Whether they are
15:52:10 6 thinking in terms of conflict or thinking of it in terms of
15:52:13 7 her safety, I'm not sure.

15:52:16 8
15:52:16 9 Anyway, then if we go to p.172 of the ICRs on 28 February
15:52:23 10 2006. "Called the source. She called back. The source
15:52:32 11 says Gobbo sees [REDACTED]", you know who that is I take
15:52:38 12 it?---Yes.

15:52:38 13
15:52:38 14 Talking to - - - ?---I think he actually has an alias in
15:52:42 15 this Commission.

15:52:43 16
15:52:43 17 Has he?

15:52:44 18
15:52:44 19 COMMISSIONER: I think he might have too.

15:52:52 20
15:52:53 21 MR WINNEKE: We'll keep going. If we do find that -
15:52:57 22 talking to you outside of court, then saw [REDACTED]
15:53:01 23 talking to Stuart Bateson at the County Court and then
15:53:05 24 [REDACTED] asks Bateson how [REDACTED] and [REDACTED] were and source
15:53:12 25 feels nervous as a result. Now, at that stage I take it -
15:53:17 26 do you know whether you'd got a statement yet from [REDACTED]?---I'm
15:53:22 27 not - I'd have to look but certainly, it was well-known he
15:53:25 28 was with us, he was out of custody, in our custody, and
15:53:31 29 there's no doubt in my mind that there was a veiled threat
15:53:36 30 made by [REDACTED]

15:53:38 31
15:53:38 32 Did you know at that stage that [REDACTED] had implicated Ms Gobbo
15:53:46 33 in the transaction or events which occurred subsequent to
15:53:50 34 the arrest, that is on 26 October 2003. I discussed this
15:53:56 35 with you yesterday?---Yes.

15:54:00 36
15:54:01 37 That's, I think it's paragraph 65 in your statement where
15:54:04 38 he says that - in effect he conveys to Ms Gobbo, "Can you
15:54:09 39 pass on a message to Williams and Mokbel?" Do you know
15:54:13 40 whether you would have been aware of that at that
15:54:17 41 stage?---I reckon - on the 25th Nigel L'Estrange took the
15:54:24 42 statement re [REDACTED], taken over two days. Signed on the
15:54:31 43 7th of March. So it's possible.

15:54:34 44
15:54:35 45 What did you do about that when he told you that? I mean
15:54:38 46 this is a person who you're going to call, you're proposing
15:54:41 47 to call as a witness against [REDACTED] and [REDACTED]?---I don't

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15:54:51 1 actually recall being too worried about that circumstance.
 15:54:53 2 I think what he said was that he went, "Tell [REDACTED] and [REDACTED]
 15:55:00 3 the [REDACTED]", I don't know that I was too
 15:55:08 4 wrapped in that.
 15:55:09 5
 15:55:09 6 She certainly regarded it as a matter of significant
 15:55:13 7 concern, didn't she?---When I go and see her down in South
 15:55:17 8 Melbourne on the 15th and when she denies it ever happened.
 15:55:21 9
 15:55:21 10 When you say you didn't regard it of being too concerning,
 15:55:26 11 why wouldn't you? Here's a fellow who's pleading guilty to
 15:55:32 12 murder and you take the view that - ultimately the view is
 15:55:37 13 taken that [REDACTED] has in effect engaged the lawyers to
 15:55:43 14 represent these people, the puppeteer as we discussed
 15:55:47 15 yesterday, and this is the witness saying that one of the
 15:55:51 16 people who [REDACTED] engaged was in fact passing messages to
 15:55:56 17 [REDACTED] about [REDACTED] so on one view involving, and
 15:56:00 18 then going to pass on a message, and thereby involving
 15:56:07 19 herself in the transaction subsequent to the murder. I
 15:56:10 20 mean - you say you weren't troubled by that but it's a
 15:56:14 21 matter of some significance, surely?---It got included in
 15:56:18 22 the statement so it's not something of insignificance. I
 15:56:21 23 think it's not too long after there's service I go and meet
 15:56:25 24 her, yeah.
 15:56:28 25
 15:56:29 26 Why wouldn't you immediately go and investigate that claim,
 15:56:32 27 because I mean on one view she's a person who might well be
 15:56:36 28 implicated as an accessory after the fact or something even
 15:56:40 29 worse?---Well I had a fair bit on in those days.
 15:56:43 30
 15:56:43 31 But you had other people working in your crew?---We did.
 15:56:46 32 Yeah, no, look, we probably could have gone and asked her
 15:56:48 33 earlier than we did, but - - -
 15:56:50 34
 15:56:50 35 Do you think this might be another example of maybe cutting
 15:56:53 36 her a bit of slack because she's helping out?---I don't
 15:56:57 37 know. I don't know if I would have taken a different
 15:57:00 38 approach had it been one of the other lawyers. I don't
 15:57:04 39 know.
 15:57:05 40
 15:57:05 41 So if he'd said it was Solicitor 2, for example, I suggest
 15:57:10 42 you'd be right down on that like a tonne of bricks?---I
 15:57:13 43 don't know. It didn't seem all that significant compared
 15:57:17 44 to what else we were doing and collecting over that period
 15:57:20 45 of time. I'm sure, as we did, get around to it eventually,
 15:57:25 46 which I think is only a few weeks later. With all the
 15:57:32 47 stuff we obtained in that period, and then it wasn't top of

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15:57:35 1 the list to chase down.

15:57:36 2
15:57:36 3 Can I put this to you: if it was anyone else I suggest, if
15:57:40 4 you had a suggestion, if you had evidence that a lawyer was
15:57:45 5 involved, and bear in mind we're talking about a person who
15:57:49 6 had been a target back in 2003, Ms Gobbo, if there was
15:57:55 7 information I'm suggesting about any other lawyer who was a
15:58:00 8 target and being looked at, you would be looking at it very
15:58:03 9 closely, calling her in, interviewing her and asking her
15:58:07 10 all sorts of questions about that?---Yeah, I don't know
15:58:10 11 about that. I'd have to have a look at the paragraph
15:58:14 12 again. I'm not quite sure that we're seeing the same
15:58:17 13 significance. I think it was more so, we'd have to have a
15:58:25 14 look at the [REDACTED] statement, but I think it was just a
15:58:28 15 signal around [REDACTED] and his thoughts about what he'd spoke
15:58:32 16 about rather than any clear account of what happened, but
15:58:37 17 maybe I'm wrong about that. It certainly didn't seem, when
15:58:41 18 we took 13 statements or something like that off [REDACTED]
15:58:45 19 over a period of nearly three or four weeks involving
15:58:49 20 murders, shootings, robberies, it didn't seem top of the
15:58:53 21 list.

15:58:54 22
15:58:54 23 COMMISSIONER: Can I just say for the record the witness
15:58:56 24 when he spoke about the conversation about the [REDACTED]
15:59:00 25 his [REDACTED] and [REDACTED] together?---Yes, sorry.

15:59:02 26
15:59:03 27 That's okay, that's okay.

15:59:05 28
15:59:05 29 MR WINNEKE: Can I suggest at the very least if it was
15:59:07 30 Solicitor 2 that would be Mr L'Estrange's affidavit, that
15:59:11 31 sort of information?---Yeah, I think it occurs after that
15:59:15 32 affidavit but, yeah, I would imagine that would be included
15:59:18 33 in an affidavit of that sort.

15:59:20 34
15:59:23 35 Now, if we then go, if we have a look at 28 February,
15:59:29 36 continue looking at that. "Ms Gobbo believes that the DPP
15:59:34 37 would be unhappy with the police approach to [REDACTED] last
15:59:38 38 week. The DPP would want less than what the police want
15:59:42 39 from [REDACTED]. A heavy handed approach to [REDACTED] would
15:59:45 40 not work well. [REDACTED] called the source begging for her
15:59:49 41 to see him. The source is busy till the weekend. He wants
15:59:54 42 a fair go and does not know what to do. The source has
15:59:59 43 offered to help and give informed advice." Do you see
16:00:02 44 that?---Yep.

16:00:03 45
16:00:04 46 It wouldn't surprise you to see that because it would be
16:00:07 47 quite expected that a person in his position would want

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informed advice?---No, it wouldn't, it wouldn't. But I don't think any of this was passed on to me.

I'm not suggesting it was. On 3 March you delivered [REDACTED] finalised statement to his solicitor, [REDACTED] and to the OPP for review and there was a meeting with the OPP and signed statements were provided to the court, correct?---So 3 March we delivered - yeah, we gave, he wanted his solicitor to have a look at his statements and the next day we had a meeting with the OPP. I think we would have given them a copy, I don't know.

Do you know whether [REDACTED] made suggestions to the effect that the statement was inaccurate and ought be changed in any way, shape or form?---I don't think I have a note of any changes he suggested. Let's have a look.

Have a look?---3 March. No, and in fact I think we must have left the statements. It just seems like an hour and ten minutes for him to read all that is probably a bit short. But it's longer than just dropping them off. In any case I don't have any note of any changes. He does go out and see him, of course, to provide further advice.

Then on the [REDACTED] following that, [REDACTED] pleads [REDACTED] to the murders of [REDACTED] and [REDACTED], [REDACTED]. Is it the situation that he didn't [REDACTED] guilty to the murder of [REDACTED]?---I actually can't remember. I know his evidence was that he didn't [REDACTED] to shoot [REDACTED], that [REDACTED] [REDACTED]. I don't know if he was presented on it or not. I think he might not have been.

I think he might not have been. Indeed, ultimately when Williams pleaded he didn't plead to the murder of [REDACTED] [REDACTED] either, did he?---Yeah, I think that's fair, more fair than [REDACTED]. Our case was that he engaged those [REDACTED] to kill [REDACTED] not [REDACTED] and [REDACTED]

[REDACTED] when he pleaded, he didn't, he was [REDACTED] for both of those killings?---Undertaking, yeah.

Effectively as it turned out no one ever was convicted of - - ?---I'll have to take your word for that.

- - - for dealing with poor old [REDACTED]?---Yeah.

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16:03:21 1 If that's the case, isn't it?---Poor [REDACTED] I'm not sure if
 16:03:24 2 that's the case, whether he did [REDACTED] or not.
 16:03:27 3
 16:03:27 4 You say in your statement that he did. I'm asking you
 16:03:32 5 whether in fact that's the case because I've read elsewhere
 16:03:34 6 that that wasn't the case, but I might be wrong?---I feel
 16:03:37 7 like he should have been.
 16:03:38 8
 16:03:38 9 In any event we'll check it overnight?---But I do know, I
 16:03:43 10 do know that the others didn't.
 16:03:45 11
 16:03:46 12 Yes, okay?---It's just so long ago.
 16:03:50 13
 16:03:50 14 I follow that. You would hope at least the man who held
 16:03:53 15 the gun and pulled the trigger would be responsible for
 16:03:56 16 it?---Yes.
 16:03:56 17
 16:03:57 18 All right then. So he was sentenced on [REDACTED] to [REDACTED]
 16:04:04 19 imprisonment. He got a minimum of [REDACTED] years, I think that's
 16:04:08 20 right?---Correct.
 16:04:09 21
 16:04:10 22 All right. Now, then on [REDACTED] I think Justice King
 16:04:22 23 ordered that the plea and sentence and statements be
 16:04:24 24 released to the parties in the [REDACTED], [REDACTED] now
 16:04:36 25 murder trial, correct?---On which date, sorry?
 16:04:39 26
 16:04:39 27 On about [REDACTED] I think, I'm going from Justice King's, a
 16:04:45 28 decision of Justice King?---Yeah, I remember there was
 16:04:48 29 quite a degree of toing and froing and when they could be
 16:04:53 30 released and how much could be released. It went back and
 16:04:57 31 forth a few times I think.
 16:04:58 32
 16:04:59 33 Apparently Ms Gobbo is provided with a copy of [REDACTED]
 16:05:04 34 statement and she notes the contents of paragraph 68, in
 16:05:09 35 which he says that he passed on a message to her and
 16:05:16 36 subsequent to that there's a meeting which is set up
 16:05:20 37 between you and her?---Yeah, I don't think she was served
 16:05:23 38 with that, I think she must have got it through other
 16:05:26 39 means.
 16:05:27 40
 16:05:27 41 If we go to ICR p.188. What you see there at 20:25 is
 16:05:38 42 Gobbo calls and she's called back and she's furious
 16:05:42 43 regarding [REDACTED] statement regarding the murder of
 16:05:46 44 [REDACTED] "Paragraph 68 is pure crap. Never had this
 16:05:50 45 conversation, she's very, very angry and tears are flowing.
 16:05:54 46 The statement should have been checked before being
 16:05:57 47 produced to, in the Supreme Court and being sworn as

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16:06:01 1 accurate. She made sure that everything that [REDACTED] said was
16:06:06 2 true before it was used in a statement". Do you see
16:06:09 3 that?---I do.
16:06:09 4
16:06:10 5 And she's concerned that she's going to be subpoenaed for
16:06:15 6 the defence and trust issues are raised regarding you and
16:06:20 7 Purana for not asking her first, it would have been easy to
16:06:24 8 check. So she's upset about that. And apparently her
16:06:30 9 stress levels are at 100 per cent and then there's
16:06:33 10 discussions over the ensuing days and the stress levels
16:06:38 11 gradually ease. As we can see there they go down to 95 per
16:06:42 12 cent, et cetera, and so on. And then an arrangement is
16:06:48 13 made I think in due course to meet her?---On 18 March.
16:06:55 14
16:06:55 15 18 March I think it is. In any event, prior to that
16:07:01 16 occurring you go and see [REDACTED] again and that's on 15
16:07:11 17 March, do you accept that?---Yes.
16:07:12 18
16:07:16 19 If we have a look at this transcript, it's
16:07:22 20 VPL.0005.0062.0176. I take it you've read this statement
16:07:34 21 too?---Some time ago, yes.
16:07:35 22
16:07:37 23 You go out there and you say, "Have you heard what happened
16:07:40 24 yesterday?" And he said, "Yeah, I had a brief out the
16:07:45 25 front" and he says that, "He's full of shit" and that's a
16:07:49 26 reference to [REDACTED] I assume. And he says, "You know
16:07:56 27 for a fact he's full of shit, there's nothing I can do.
16:08:00 28 Nothing you can do", you say. He says, "What do you want
16:08:04 29 me to do?" He says, "I want, I want to fucking help,
16:08:07 30 you've got it all fuckin' wrong, that's the whole fuckin'
16:08:12 31 thing". What occurs then is he's telling you effectively
16:08:18 32 that some of the things that [REDACTED] has said in his
16:08:23 33 statement are simply not accurate, and I'm not going to
16:08:28 34 descend into the detail unless you think it's relevant.
16:08:31 35 But that's the gist of it, isn't it?---Yep.
16:08:33 36
16:08:35 37 Go to p.2, "What [REDACTED] is saying is fuckin' wrong, you let him
16:08:40 38 get away with [REDACTED] fucking murders and [REDACTED] attempted
16:08:44 39 murder". You say, "We're here, mate, to give us an
16:08:49 40 opportunity to tell us what you know". He says, "What do I
16:08:52 41 get out of it now? What do I get out of it now?" You say
16:08:56 42 at p.3, "That's something you've got to negotiate through
16:08:59 43 your lawyers and the OPP. Who have you been talking to?
16:09:04 44 What do you mean? Well, you just said that Mr O'Brien, you
16:09:10 45 just said that you've got this scenario about what [REDACTED] was
16:09:13 46 saying. And he says, "On the phone intercepts". "No, you
16:09:19 47 were saying". He says, "My solicitor. I spoke to Nicola

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16:09:24 1 and Jim, right, I curse the day, I should have, I tried to
 16:09:29 2 tell [REDACTED] that's what I wanted him here, 'cause I
 16:09:36 3 was trying to tell him". That's a reference to another
 16:09:39 4 police officer who had had some dealings with him in the
 16:09:42 5 past?---Yes.
 16:09:42 6
 16:09:43 7 And anyway this discussion goes on. These transcripts were
 16:09:52 8 subsequently supplied to [REDACTED] during the course of,
 16:10:02 9 the lead up to the trial. Do you understand that they were
 16:10:10 10 supplied and redacted?---Yes.
 16:10:12 11
 16:10:12 12 And references to Nicola Gobbo were taken out, is that
 16:10:15 13 right?---Yes.
 16:10:15 14
 16:10:17 15 Why was that?---Same reason as the last.
 16:10:21 16
 16:10:21 17 So on this occasion you're protecting her from [REDACTED]
 16:10:25 18 knowing that she was involved in rolling [REDACTED] against
 16:10:29 19 him?---Yes.
 16:10:30 20
 16:10:30 21 So what's occurred initially is, "We've got to protect
 16:10:34 22 everyone from knowing that Gobbo has rolled in acting for
 16:10:40 23 [REDACTED] when he rolls against everyone else. Now we've
 16:10:43 24 got to protect Gobbo from having a role in [REDACTED]
 16:10:48 25 rolling on the last standing duck, if you like,
 16:10:51 26 [REDACTED]?---Yes. And Mr Mokbel, some of those - - -
 16:10:55 27
 16:10:56 28 Some of those related to Mokbel?---Yep, and others.
 16:10:59 29
 16:11:00 30 Did you get any advice about that before you made the
 16:11:03 31 redactions?---I don't remember. I certainly would have
 16:11:06 32 discussed it with Gavan and others.
 16:11:10 33
 16:11:10 34 Did you discuss it with Jim O'Brien?---Who's my boss at
 16:11:18 35 this stage? I'm not sure.
 16:11:21 36
 16:11:22 37 O'Brien's in charge. O'Brien was with you at these
 16:11:28 38 meetings so clearly it's a matter you would have discussed
 16:11:32 39 with him - - - ?---I would have discussed it with him.
 16:11:34 40
 16:11:34 41 Do you say that he agreed with you that it was appropriate
 16:11:37 42 to redact the notes to protect Ms Gobbo?---Yes.
 16:11:40 43
 16:11:54 44 So that discussion goes on and again, I just want to ask
 16:11:58 45 you about a couple of entries. At this stage there's toing
 16:12:05 46 and froing and it's clear enough that he's vacillating,
 16:12:15 47 he's not too sure what he's going to do, do you accept

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that?---He doesn't make the commitment but, you know, I think it's pretty, pretty certain where he is. He repeats again here down the bottom, or mid-page, p.4, "I'm fucked, I'm going to be doing [REDACTED] to [REDACTED] years" and then I think if we roll down further he might continue that possibly.

I mean obviously assuming he's convicted he might well be doing some time, there's no question about that?---He's probably seen [REDACTED] get [REDACTED] years with a plea of guilty, so I have no doubt he's thinking [REDACTED] is a distinct possibility on a plea - - -

He would be nervous, there's no doubt about that. He'd certainly be wanting to speak to a lawyer. He's speaking to you obviously with Mr O'Brien. It seems that he's been speaking to Nicola Gobbo and Jim Valos?---Yes.

But he wants to know whether he should keep the solicitors, do you see that, p.11?---I don't know he said that. I'm waiting for it to come up, yes.

If we go back to p.10 he's obviously worried about, he's worried about [REDACTED]?---Yes.

Because clearly he knows that if he, and this is all about not just him pleading guilty, you want him to assist you, that's one of the things?---Yes.

And he knows that that would have consequences for [REDACTED] [REDACTED] and if you have a look at p.10, he talks about [REDACTED] [REDACTED] and [REDACTED] and [REDACTED] and he says that [REDACTED] thinks it's going to blow over. You say, "It's not going to blow over, you know that. I can see it, I can see it. So what you need to do is sit down, and it has to be with us and you have to spell out everything you know and we can get it in a statement format, this is exactly the same process we've been", and he says, "Youse pull me out of here? Do you youse pull me out of here?" So he wants to know whether he's going to be taken out of the prison for the purposes of speaking with you. You say, "Probably". He says, "Well I'm not staying here if that happens. Yeah, probably. What we do then is we sit down, we record everything and the OPP and the solicitors talk". He says, "Do I keep the solicitors? Do I keep the solicitors?" You say, "I'm not sure, it's up to you". He says, "I've got heaps of confidence in Jim, Nicola's good but she has to give something, I can't, you know what I mean?" You say,

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16:15:09 1 "Personally I think you're better off with independent
16:15:11 2 legal representation". He says, "That's what I mean". You
16:15:14 3 say, "That's what I personally think and I can't tell you
16:15:17 4 to change solicitors or anything because as far as I know
16:15:21 5 they're both very good but what I'm saying is they are
16:15:25 6 involved with a lot of other people", and so that's, I mean
16:15:31 7 really what you say, I think you've said in your statement,
16:15:34 8 is, "I said to him that you're better off getting
16:15:37 9 independent solicitors"?---Yes.

16:15:39 10
16:15:40 11 And you say that because?---Well, I've just been through,
16:15:47 12 you know, cross-examination and notes and Mr Lovitt's
16:15:51 13 screaming at me and Mr Heliotis, I didn't particularly want
16:15:58 14 to do it again. It would have been much easier for me if
16:16:02 15 he chose another solicitor, if he had have gone to another
16:16:06 16 firm, if he had have gone somewhere else. That's what I'm
16:16:11 17 expressing at that point.

16:16:12 18
16:16:13 19 Your view is, "Because they've been involved with other
16:16:16 20 people, you're better off with independent legal
16:16:21 21 representation"?---Yeah, that's what I'm saying to him.

16:16:24 22
16:16:24 23 What you know, at that stage is - firstly, Nicola Gobbo has
16:16:31 24 acted for [REDACTED], she's acted for [REDACTED] there's a clear
16:16:36 25 conflict situation there. She's a police informer, another
16:16:42 26 thing, and for that reason you say you're better off with
16:16:48 27 independent legal representation, amongst other things,
16:16:54 28 would that be fair to say?---My main thoughts really, I
16:16:56 29 agree with those propositions you put to me but high on my
16:17:00 30 priorities was it's, you know, going to put her safety at
16:17:05 31 risk and I'm going to have to go through those steps again.

16:17:08 32
16:17:08 33 And indeed, in [REDACTED] statement he says that he spoke
16:17:18 34 about Nicola Gobbo as "my barrister" so that's another
16:17:24 35 reason why it's going to be pretty difficult for her to be
16:17:28 36 involved?---Does he? What's the reference there? Is that
16:17:30 37 when he first visits at the - - -

16:17:32 38
16:17:33 39 I'll read you paragraph 68. "While I was at the Custody
16:17:37 40 Centre I was visited by my barrister Nicola Gobbo. I asked
16:17:40 41 her to pass on a message to [REDACTED] and [REDACTED] and I [REDACTED] my
16:17:43 42 [REDACTED] and mentioned [REDACTED] This action was
16:17:47 43 referring to [REDACTED] from [REDACTED] to go to [REDACTED]
16:17:52 44 so [REDACTED] could be [REDACTED] Nicola wrote a note and
16:17:56 45 put it to the screen, although I don't remember the exact
16:17:59 46 wording, it said words to the effect that she would be
16:18:03 47 seeing them that day". So what is revealed in that is that

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16:18:07 1 effectively, and that statement implicates [REDACTED]
 16:18:11 2 quite clearly?---Yeah, [REDACTED] yeah, I think it does.
 16:18:15 3
 16:18:17 4 Yeah, and implicates [REDACTED], it suggests, and the
 16:18:21 5 idea was to use that information or that evidence against
 16:18:25 6 both [REDACTED] and [REDACTED] to prove that they were
 16:18:27 7 involved in the murder of [REDACTED]?---Yes.
 16:18:30 8
 16:18:31 9 And indeed, [REDACTED] was subsequently charged with the
 16:18:33 10 murder of [REDACTED] I think - did he go to
 16:18:39 11 trial?---I can't remember to be honest. I think it might
 16:18:42 12 not have proceeded with.
 16:18:43 13
 16:18:44 14 I think that might have been right. So there were a whole
 16:18:50 15 lot of issues there. If we put aside everything else, the
 16:18:53 16 fact that she's acted for [REDACTED] she's acted for [REDACTED]
 16:18:58 17 [REDACTED] she's acted for [REDACTED] she's acted for [REDACTED]
 16:19:05 18 in fact she's doing a trial for [REDACTED] at that very
 16:19:13 19 time [REDACTED] So there were about a
 16:19:16 20 thousand reasons why Nicola Gobbo should not be involved,
 16:19:18 21 do you agree with that proposition?---Yeah, I reckon there
 16:19:21 22 was definitely, there was definitely good reasons for her
 16:19:25 23 not to be involved, yep.
 16:19:26 24
 16:19:26 25 Another reason to add to that and a significant reason was
 16:19:33 26 she was actually a police agent, an informant for Victoria
 16:19:38 27 Police?---Yes, I knew that at the time, yeah.
 16:19:40 28
 16:19:43 29 I've been passed a note by Ms Enbom. It may well be that
 16:19:48 30 [REDACTED] in fact pleaded to [REDACTED] murders, [REDACTED] and
 16:19:53 31 [REDACTED] I thank her for that?---Yeah, I think that might
 16:19:55 32 be right.
 16:19:55 33
 16:19:59 34 That's good to know. That's your advice, "I think you're
 16:20:01 35 better off with independent legal representation"?---Yep,
 16:20:04 36 but I do, you know, I want to highlight that sentence I
 16:20:08 37 said there that, "Now I can't tell you to change
 16:20:11 38 solicitors".
 16:20:12 39
 16:20:12 40 Yes?---I think that was my view, that ultimately if that's
 16:20:19 41 what he wanted to persist with and ultimately he seems to,
 16:20:23 42 then that's what we were stuck with.
 16:20:27 43
 16:20:28 44 That may well be right. You can't force him to do anything
 16:20:32 45 but certainly as we've discussed before, you can, because
 16:20:36 46 of your knowledge one assumes, speak to the right people
 16:20:39 47 and ensure that the right people have all of the knowledge

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16:20:42 1 to make sure a situation which shouldn't exist, that is
 16:20:46 2 Gobbo representing this fellow, doesn't exist, do you
 16:20:50 3 follow that?---Yeah, well the big one, of course, is her as
 16:20:54 4 a registered police informer. Now I know this and I do not
 16:21:00 5 know that the OPP or the courts know that. So that's the
 16:21:06 6 big difference.
 16:21:07 7
 16:21:07 8 That's the big one but that's only one of the reasons.
 16:21:11 9 Really, when you add it together with all of the other
 16:21:13 10 reasons there is just no way this woman should be providing
 16:21:17 11 advice I suggest to [REDACTED]?---So the other reasons were
 16:21:19 12 known by other more experienced people, but I do agree that
 16:21:23 13 I was one of the people that did know that other ingredient
 16:21:28 14 that perhaps wasn't known to the OPP or the courts.
 16:21:31 15
 16:21:31 16 I've put to you today, I'm suggesting to you that you've
 16:21:34 17 got another piece of knowledge which other people didn't
 16:21:37 18 know and that is this information of Ms Gobbo's involvement
 16:21:41 19 on 10 and 11 July of 2004. Now you say, well, you don't
 16:21:47 20 necessarily accept that proposition?---No, I don't.
 16:21:50 21
 16:21:50 22 Okay?---Yep.
 16:21:51 23
 16:21:52 24 All right. Then there's further discussion and again he
 16:22:04 25 makes it plain, if we then go, I think, to p.24, and I
 16:22:16 26 should say, in documents which were provided to Carl
 16:22:21 27 Williams and I think this will, rather than me referring to
 16:22:27 28 it on every occasion, any occasion in these discussions
 16:22:30 29 where Nicola Gobbo is raised as a potential solicitor,
 16:22:34 30 that's redacted out, do you accept that?---I accept that.
 16:22:36 31 I think she ends up complaining that we missed a reference
 16:22:39 32 or something at some point.
 16:22:41 33
 16:22:43 34 Her gender was left in?---Her gender was it, right.
 16:22:43 35
 16:22:47 36 So she got very upset about the fact that there was a
 16:22:50 37 gender left her which might well have indicated that it was
 16:22:53 38 her?---Right.
 16:22:54 39
 16:22:54 40 Again he is asking about whether he should keep his
 16:22:58 41 solicitors. If we go to p.24. Now, Mr O'Brien says - I
 16:23:11 42 withdraw that. Go to the previous page. At p.23 he's
 16:23:19 43 talking about, I think [REDACTED] "I've got no gains, I'm
 16:23:26 44 burnt out. I'm over it all now, I'm burnt out. I'll cop
 16:23:31 45 it sweet but, fuck, not for this, all the other bullshit.
 16:23:38 46 This is crap, yeah". Then you're asking about a police
 16:23:43 47 officer who is involved with an operation with a thousand

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16:23:47 1 pills and then ultimately he gets some information down the
 16:23:50 2 track about that and I think he puts in Paul Dale, is that
 16:23:54 3 right?---Yeah, I don't know for certain but possibly.
 16:23:59 4
 16:23:59 5 And he says, Mr O'Brien then says on p.24, "All right, well
 16:24:04 6 it's up to you. You can either keep your solicitor or it's
 16:24:08 7 up to you whether you get another solicitor". You say,
 16:24:12 8 "You make the assessment yourself, [REDACTED]". He says, "Jim's
 16:24:17 9 good, Jim's good. Jim's a good solicitor. Jim's fair".
 16:24:21 10 He says, "Jim's been" - and you say, "Yeah, Jim's good,
 16:24:25 11 Jim's a good solicitor". [REDACTED] says, "Jim's fair, Jim has been
 16:24:29 12 telling me". You say, "I'll tell you one thing, I truly
 16:24:33 13 believe Jim is a good solicitor, I believe he's an honest
 16:24:37 14 solicitor. Yeah, he is". You say, "But you're putting him
 16:24:39 15 between a rock and a hard place, you're putting him where
 16:24:42 16 he's in a potential conflict of interest. That's something
 16:24:43 17 for you and him to work out. I can tell Jim, okay. I'll
 16:24:47 18 tell you what's going to happen, I'll speak to [REDACTED] and
 16:24:53 19 I'll roll, okay". You say, "You let us know, we'll start
 16:24:58 20 the ball rolling and you let us know"?---"We won't be
 16:25:04 21 coming down again", so I think that would leave it firmly
 16:25:09 22 in his court.
 16:25:09 23
 16:25:10 24 Yes, the ball is in his court. If we then go over to p.26.
 16:25:17 25 You ask, he's asking you if you can go and see [REDACTED]
 16:25:24 26 "Go and see her and I'll ring up Jim to come down and see
 16:25:27 27 me this week, Jim's all right. I was going to say, Jim's,
 16:25:31 28 don't get me wrong, I'm going to explain". He says, "Jim
 16:25:35 29 will be rapt. Jim told me to go this way. Yeah, as I
 16:25:40 30 said, I reckon Jim, I've known Jim for years, I've always
 16:25:45 31 found he's good to deal with". That's the end of it as far
 16:25:50 32 as that meeting's concerned?---Yes.
 16:25:53 33
 16:25:55 34 All right. So then the next thing that occurs -
 16:26:01 35 Commissioner, I should be - I think that document's
 16:26:04 36 tendered also. If it's not - - -
 16:26:07 37
 16:26:08 38 COMMISSIONER: This document?
 16:26:08 39
 16:26:09 40 MR WINNEKE: Yes.
 16:26:14 41
 16:26:15 42 COMMISSIONER: Apparently it was shown to Jim O'Brien on 4
 16:26:19 43 September but not tendered at that time.
 16:26:21 44
 16:26:22 45 MR WINNEKE: I tender that.
 16:26:22 46
 16:26:26 47 #EXHIBIT RC772A - (Confidential) [REDACTED] conversation between

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16:26:28 1 Bateson, O'Brien and [REDACTED] on
 16:26:33 2 [REDACTED]/06 at [REDACTED] Prison.
 16:26:41 3
 16:26:42 4 #EXHIBIT RC 772B - (Redacted version.)
 16:26:44 5
 16:26:44 6 Whilst I'm tendering documents, Commissioner, I might
 16:26:47 7 tender a couple of other documents. I've referred to
 16:27:02 8 RCMPPI.0108.0002.0006 which is a transcript of proceedings,
 16:27:17 9 R v Williams, that's 23 September 2004. That was the
 16:27:22 10 transcript of the hearing, the mention before Justice
 16:27:27 11 Teague. Can I also tender, Commissioner,
 16:27:40 12 OPP.0040.0001.0001. That was the transcript of the
 16:27:48 13 evidence given by Mr Bateson at the committal proceeding of
 16:27:56 14 [REDACTED], [REDACTED] and [REDACTED] in [REDACTED] of 2005 and the
 16:28:03 15 various notes and diary entries of Mr Bateson and others.
 16:28:14 16
 16:28:17 17 COMMISSIONER: Are they to be one exhibit?
 16:28:19 18
 16:28:20 19 MR WINNEKE: One exhibit. It's one document, Commissioner,
 16:28:23 20 and it's about 1000 pages but it contains a transcript of
 16:28:28 21 the evidence of Mr Bateson and I think also Mr Hatt and a
 16:28:33 22 bundle of police notes. There's probably not much point in
 16:28:36 23 separating them all out.
 16:28:37 24
 16:28:37 25 COMMISSIONER: Can I describe them just generally as
 16:28:40 26 exhibits?
 16:28:40 27
 16:28:40 28 MR WINNEKE: I think they're described as Exhibit 32 in the
 16:28:43 29 committal proceeding.
 16:28:48 30
 16:28:49 31 #EXHIBIT RC773A - (Confidential) Transcript before Justice
 16:28:54 32 Teague on 23/09/04.
 16:28:57 33
 16:28:58 34 #EXHIBIT RC773B - (Redacted version.)
 16:28:59 35
 16:29:00 36 #EXHIBIT RC774A - (Confidential) Transcript of evidence of
 16:29:03 37 Bateson at the committal proceedings of
 16:29:05 38 [REDACTED] and [REDACTED] and [REDACTED]
 16:29:09 39 [REDACTED] together with Exhibit 32.
 16:29:11 40
 16:29:12 41 #EXHIBIT RC774B - (Redacted version.)
 16:29:14 42
 16:29:14 43 Thanks, Commissioner. And finally a bundle of Operation
 16:29:17 44 Purana updates commencing on 16 May 2005 and ending on 28
 16:29:24 45 November 2005, 15 entries.
 16:29:37 46
 47

.20/11/19

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BATESON XXN - IN CAMERA

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16:29:38 1 #EXHIBIT RC775A - (Confidential) Fifteen Operation Purana
16:29:45 2 updates from 16/5/05 to 28/11/05
16:29:52 3 inclusive.
16:29:53 4
16:29:53 5 #EXHIBIT RC775B - (Redacted version.)
16:29:55 6
16:29:55 7 COMMISSIONER: That pretty much takes us to the end of the
16:29:58 8 day. Just so that people can plan for the next witness and
16:30:02 9 beyond, how much longer do you expect to be, Mr Winneke?
16:30:06 10
16:30:06 11 MR WINNEKE: I expect to finish Mr Bateson tomorrow.
16:30:11 12
16:30:11 13 COMMISSIONER: But really what time tomorrow I'm asking?
16:30:14 14
16:30:15 15 MR WINNEKE: We may need to have perhaps one witness on
16:30:18 16 standby for the afternoon. It may well depend on - - -
16:30:23 17
16:30:23 18 COMMISSIONER: I'm going to ask about the others in a
16:30:25 19 minute. Do you expect to finish in the morning?
16:30:28 20
16:30:29 21 MR WINNEKE: I doubt it.
16:30:31 22
16:30:32 23 COMMISSIONER: How long is cross-examination expected to
16:30:34 24 take?
16:30:34 25
16:30:35 26 MR NATHWANI: 45 minutes, no more.
16:30:38 27
16:30:39 28 MR CHETTLE: None, Commissioner.
16:30:39 29
16:30:39 30 COMMISSIONER: None. And re-examination?
16:30:41 31
16:30:41 32 MS ENBOM: Not much at the moment.
16:30:42 33
16:30:42 34 COMMISSIONER: We better have Mr McWhirter on standby for
16:30:46 35 tomorrow then.
16:30:47 36
16:30:47 37 MS ENBOM: Yes, we'll make those arrangements.
16:30:49 38
16:30:49 39 COMMISSIONER: I don't think we'll get beyond that
16:30:53 40 tomorrow.
16:30:53 41
16:30:53 42 MR WINNEKE: Commissioner, there's away to go but I'll do
16:30:56 43 my best. I doubt very much whether I'll be finished before
16:31:02 44 the afternoon.
16:31:04 45
16:31:04 46 COMMISSIONER: I suppose just in case you have a change of
16:31:08 47 heart overnight - Mr McWhirter, is he going to be a long

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16:31:12 1 witness?

16:31:13 2

16:31:13 3 MR WINNEKE: No, he's not, Commissioner.

16:31:14 4

16:31:14 5 COMMISSIONER: The next witness after him is?

16:31:16 6

16:31:17 7 MR WINNEKE: Calishaw.

16:31:18 8

16:31:18 9 COMMISSIONER: It might be as well just to have Mr Calishaw

16:31:21 10 in telephone contact in case things move faster than

16:31:25 11 anticipated.

16:31:26 12

16:31:27 13 MR CHETTLE: Commissioner, can I raise a couple of issues.

16:31:29 14 Hopefully the pace is getting up, Calishaw and McWhirter

16:31:34 15 are both witnesses that concern us. I understand that the

16:31:37 16 proposal at the moment is that Mr O'Connor would be called

16:31:40 17 on Tuesday. There's some arrangement to bring him down

16:31:45 18 from far away. I'm trying to persuade Mr Winneke that that

16:31:49 19 might, I don't really see that he's relevant to the Royal

16:31:52 20 Commission but that's an argument that we're having but - -

16:31:56 21 -

16:31:56 22

16:31:56 23 COMMISSIONER: I think with respect, Mr Chettle, that might

16:31:58 24 be more a matter for counsel assisting.

16:32:02 25

16:32:02 26 MR CHETTLE: Sorry, Mr Winneke I said. I'm trying to

16:32:08 27 persuade him. I'm not doing very well.

16:32:09 28

16:32:09 29 COMMISSIONER: To dissuade him.

16:32:10 30

16:32:10 31 MR CHETTLE: But we have written to the Commission and to

16:32:13 32 the police saying that in relation to him and another man,

16:32:15 33 Mr Sheridan who is also coming shortly I'm told, that we

16:32:19 34 can't deal with his statement unless we get provided with

16:32:22 35 the documents and diary entries that he refers to in those

16:32:27 36 statements. There's a further complication with

16:32:31 37 Mr O'Connor and he refers, as you probably are aware, to an

16:32:37 38 operation in New South Wales that can only be described as

16:32:41 39 going pear-shaped in any event, and that's a topic that

16:32:45 40 again I'm trying to convince Mr Winneke and the police is

16:32:48 41 not relevant to the Royal Commission, but if it is, I have

16:32:51 42 to deal with it, and if I have to deal with it, I've

16:32:54 43 provided Mr Holt with a 20 page document, a list of diary

16:32:59 44 entries that we need before I can cross-examine him. I'm

16:33:03 45 not doing this in terrorem, I just need this stuff before

16:33:08 46 we get to the witness on the weekend. I'm going to have to

16:33:12 47 spend the whole weekend and Monday preparing for them. So

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16:33:15 1 can I please have the documents that I've requested. I
16:33:16 2 think the police will consent and the Commission can give
16:33:18 3 them to me, I think that's the way it works.
16:33:21 4
16:33:21 5 COMMISSIONER: I hear what you have to say, and I dare say
16:33:23 6 that - - -
16:33:25 7
16:33:25 8 MR CHETTLE: I'm putting it on the transcript. I'm going
16:33:27 9 to find myself in a position where, for example, Sheridan,
16:33:30 10 there was a proposal Sheridan might have come on Friday and
16:33:34 11 I simply would not have been able to cross-examine him. I
16:33:37 12 haven't read any of the material in his statement that he
16:33:40 13 refers to.
16:33:40 14
16:33:41 15 COMMISSIONER: You've had your say, Mr Chettle, and it's on
16:33:43 16 the transcript and I'm sure counsel for Victoria Police and
16:33:48 17 counsel assisting have noted what you've said.
16:33:50 18
16:33:51 19 MR CHETTLE: Thank you.
16:33:51 20
16:33:51 21 COMMISSIONER: As I'm sure they did before you put it on
16:33:55 22 the transcript. We'll adjourn until 9.30 tomorrow.
23
16:34:23 24 <(THE WITNESS WITHDREW)
16:34:24 25
16:34:24 26 ADJOURNED UNTIL THURSDAY 21 NOVEMBER 2019
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