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These claims are not yet resolved.

## **Royal Commission into the Management of Police Informants**

### **Statement of David Ryan**

DAVID RYAN of 305 William Street, Melbourne, Victoria STATES:

1. My name is David Ryan. I am currently employed as a Judicial Registrar with the Federal Court of Australia. Prior to working at the Federal Court, I was employed as a solicitor at the Victorian Government Solicitor's Office (VGSO).
2. I commenced at the VGSO in March 2000 as Assistant to the Solicitor-General for the State of Victoria, Douglas Graham QC. After a year in this role I completed abridged Articles with the VGSO. I was employed in the Litigation Branch of the VGSO which was managed by Assistant Victorian Government Solicitor, Stephen Lee. I progressed through the roles of Senior Solicitor, Principal Solicitor, then Managing Principal Solicitor. I left the VGSO in May 2015. At the time I left the VGSO I was a Managing Principal Solicitor. In that role I managed a team of solicitors providing advice and conducting litigation for government clients. One of the biggest clients was Victoria Police. As Managing Principal Solicitor, I supervised work done by solicitors in my team and was authorised to approve correspondence. However, Stephen Lee's approval was required for high-level advice.
3. I provide this statement at the request of the solicitor assisting the Royal Commission and also pursuant to a Notice to Produce dated 18 September 2019. I have prepared this statement from my own knowledge and by reference to certain documents produced to the Royal Commission by the VGSO, which have been provided to me. Due to the volume of documents produced to the Royal Commission by the VGSO, I have reviewed a selection of those documents (but not all of them).
4. The request (in a letter of 12 August 2019) asks me to provide information in relation to four matters. In this statement, I provide background and other information relevant to the questions asked in paragraphs 5 to 19 below (thereby addressing matter 4). I specifically address matters 1 to 3 in paragraphs 21 to 23 below.

#### **Negotiations concerning the Victorian witness protection program**

5. My recollection is that my first involvement with any matter involving Nicola Gobbo occurred in early 2009. Having reviewed documents produced by the VGSO to the Commission, I believe it was late January 2009. I was a Managing Principal Solicitor at that stage. The instructions came through Fin McRae, the Director of Legal



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Services for Victoria Police. I was instructed that Ms Gobbo, a practising barrister, was a witness in relation to a criminal investigation involving former police officer Paul Dale concerning the murders of Terence and Christine Hodson. I was instructed that Ms Gobbo had provided a statement in relation to a covertly recorded conversation she had with Mr Dale (and I was provided with the statement). I was instructed that it was proposed to charge Mr Dale imminently. I was instructed that a threat assessment had been conducted by [REDACTED] and the risk of harm to Ms Gobbo as a result of her role as a witness against Paul Dale was assessed as "extreme".

6. Given the risk faced by Ms Gobbo, I was instructed to act for the Chief Commissioner of Police in negotiating [REDACTED] [REDACTED] under the [REDACTED]. Although this was not a litigation matter, I was selected for the role because I had previously acted for the Chief Commissioner in a matter involving the [REDACTED]. My colleague Isabel Parsons, a senior lawyer working in the Commercial & Property Branch of the VGSO, was also involved to assist with the negotiation and drafting of a [REDACTED] which was the <sup>PII</sup> [REDACTED] document used to record the protection and assistance to be provided to Ms Gobbo [REDACTED].
7. Ultimately, agreement could not be reached between the parties in relation to Ms Gobbo's [REDACTED]. In particular, Victoria Police did not consider that it could ensure Ms Gobbo's safety in circumstances where she would not agree to change her identity and the parties could not agree on the amount of financial assistance to be provided to Ms Gobbo. Ms Gobbo received advice in this process from her sister Catherine, also a practising barrister, and Mark Waters from Piper Alderman.
8. As stated above, I was provided with the statement Ms Gobbo provided to police in relation to Mr Dale. To the best of my recollection, I do not believe the statement raised any concerns about the disclosure of privileged matters. However, I recall that around this time there were concerns raised by Mr Dale about the fact that he was a client of Ms Gobbo. However, I understood at the time that this fact was denied by Ms Gobbo. At the time, I was not concerned about the potential disclosure by Ms Gobbo of privileged matters. I was focused on the job I needed to do, which was of a limited nature. I cannot say whether I was told, at that time, that Ms Gobbo was providing information to police about persons other than Mr Dale. I may have been – but if I was, I cannot recall it now.

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**Civil proceedings in the Supreme Court of Victoria**

9. On 29 April 2010, Ms Gobbo commenced proceedings in the Supreme Court of Victoria against the State of Victoria, the then Victoria Police Chief Commissioner (Simon Overland) and former Victoria Police Chief Commissioner, Christine Nixon. Ms Gobbo was represented by John Dixon QC (instructed by Mr Waters from Piper Alderman). The essence of her claim was that she was promised by Victoria Police that, in the event that she agreed to give evidence against Mr Dale, she would be "no worse off" financially or otherwise.
  10. I received instructions from Superintendent Peter Lardner of the Civil Litigation Division of Victoria Police to act for Mr Overland and Ms Nixon in relation to Ms Gobbo's civil proceedings. Monika Pekevskva from the VGSO also worked on the matter under my supervision. I briefed Michael Wheelahan QC, Rowena Orr and Michael Rush on behalf of the defendants. The proceeding settled at a mediation conducted by Alex Chernov QC on 11 August 2010.
  11. I refer to the Statement of Marlo Baragwanath, which I have read. Paragraph 56.1 of that statement refers to a confidential briefing between counsel, me, Ms Pekevskva and members of Victoria Police. I recall attending such a briefing to assist in the preparation of the defence in the civil proceedings. I believe the briefing took place in mid-2010. The briefing provided background in relation to Ms Gobbo and her involvement with Victoria Police but I do not recall it being particularly relevant to the defence. Although I cannot be entirely sure, I believe we were told during this briefing that Ms Gobbo's involvement in providing information to Victoria Police was wider than the Dale matter. I don't recall being told or being concerned that Ms Gobbo may have been providing privileged information. Certainly, we were not told any particular details about the information Ms Gobbo was providing or whether it was privileged. I do not believe the VGSO raised any concerns about Ms Gobbo's involvement with Victoria Police at the time. For my part, I was focused on defending the civil proceeding and I did not give any further thought to this issue.
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**Legal advice in relation to human sources**

12. In 2012, Neil Comrie (former Chief Commissioner of Police) was requested by Victoria Police to conduct a review in relation to the management of human sources. Superintendent Steve Gleeson was assisting Mr Comrie in his review, and he spoke to me about his concerns about the management of informers (including Ms Gobbo). Superintendent Gleeson told me he would ask me for general advice to assist Mr





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Comrie in his review. Subsequently, I was instructed by Superintendent Gleeson to provide legal advice for the purpose of the review in relation to a number of issues relating to the use of human sources by Victoria Police. The request for advice is document **VGSO.2000.0034.0393** (produced by the VGSO).

13. After receiving the request for advice, I had coffee with Mr Gleeson and Mr Lee. Although I don't have a precise recollection, I believe Mr Gleeson outlined for us in broad terms some examples that had been uncovered in the Comrie Review of Ms Gobbo providing privileged information to Victoria Police. This is likely to be when I first became aware that Ms Gobbo may have been providing privileged information to Victoria Police. I cannot now recall if Mr Gleeson expressed the view that Ms Gobbo *had* provided privileged information (as opposed to stating that she may have provided privileged information).
14. The request for advice raised a range of issues including in relation to the use of doctors and priests. Superintendent Gleeson also requested that the advice address a hypothetical scenario involving a lawyer providing privileged information about their clients to Victoria Police.
15. I drafted the advice with some assistance from Jon Bayley (of the VGSO). My supervisor at the time, Mr Lee, settled it. The advice has been produced by the VGSO and is document **VGSO.5000.0002.0079**.
16. After the advice was sent, it was considered by Mr Comrie in his review and referred to in his report.

#### **Lawyer X injunction proceedings**

17. In late March/early April 2014, the Herald Sun published a number of articles referring to a police informer who they identified as Lawyer X. When read together with previous media reports, I considered that the articles tended to identify Ms Gobbo as Lawyer X. In particular, they tended to suggest that Ms Gobbo had provided information to Victoria Police as an informer beyond the circumstances of the prosecution against Paul Dale. It was already in the public domain that Ms Gobbo had been a witness in the prosecution against Paul Dale. However, it was not yet in the public domain that she may have been an informer in relation to other individuals. As a result, Victoria Police had assessed the risk of harm to Ms Gobbo as a result of the publication of the articles to be 'high'.



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18. I was instructed by Mr McRae and the Civil Litigation Division of Victoria Police to apply to the Supreme Court of Victoria on behalf of the Chief Commissioner of Police to seek an injunction to prevent the Herald Sun from publishing any further articles that tended to identify Lawyer X. Ms Pekevskva also acted in this matter under my supervision. I briefed Jeremy Ruskin QC, Claire Harris, Emrys Nekvapil and Fiona Batten of counsel on behalf of the Chief Commissioner.
19. Justice Cavanough granted an interim injunction on 1 April 2014 and an interlocutory injunction on 10 April 2014. See *Chief Commissioner of Police v The Herald & Weekly Times* [2014] VSC 156. Ultimately, the Herald Sun consented to a permanent injunction.
20. During this time, I received instructions from Victoria Police about Ms Gobbo's involvement in other matters. I may have even been told the names of the other people about whom she provided information, although I cannot now recall the details of what I was told.

**Matter 1 - Provide details of how you learned, or were given reason to suspect or believe, that a person, who had ongoing legal obligations of confidentiality and privilege was providing information and assistance to Victoria Police, including when that occurred and in what circumstances that occurred.**

21. I first became aware that Ms Gobbo, a barrister with ongoing legal obligations of confidentiality, was providing information and assistance to Victoria Police in early 2009 when I was instructed to act for Victoria Police in negotiating Ms Gobbo's entry into the Program. At that time, I was instructed that she had been providing information to Victoria Police in relation to Mr Dale. I refer to paragraphs 5 to 8 (inclusive) above.

**Matter 2 - Detail how you learned, or were given reason to suspect or believe, that Ms Gobbo was providing information or assistance to Victoria Police, including when that occurred and in what circumstances.**

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22. I refer to paragraph 21 above.



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**Matter 3 - Detail of when or how it became apparent to you that Ms Gobbo was or might be a human source.**

23. I understand the question to be referring to a person who is a registered informer with Victoria Police. I cannot recall exactly when I was first told or when it first became apparent to me that Ms Gobbo was or might be an informer. However, based on my review of documents produced to the Commission by the VGSO, it appears I was aware of Ms Gobbo's wider involvement with Victoria Police as an informer (beyond the Dale matter) by 1 April 2010. I have identified that date having reviewed an email from me to Shane O'Connell on 1 April 2010 (**VGSO.5000.0064.0005**). However, I have no recollection of when I became aware of this information, or the circumstances in which I became aware of this information.
24. As stated above, I have made this statement from my own knowledge and from certain documents that the VGSO produced to the Commission, which have been provided to me. If further relevant documents are identified which have not already been provided to me, I would seek the opportunity to prepare a supplementary statement addressing those documents.

Dated: 19 September 2019



David Ryan