

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

**ROYAL COMMISSION
INTO THE MANAGEMENT OF POLICE INFORMANTS**

STATEMENT OF DIANE PRESTON

DIANE PRESTON of 565 Bourke Street, Melbourne, Victoria STATES:

1. I am presently a Victorian public service employee employed as a Strategic Advisor at the Victorian Inspectorate. I was previously employed as a solicitor at the Victorian Government Solicitor's Office (**VGSO**) between about March 1987 and December 1987 and January 2003 and October 2007.
2. I attach to this statement my curriculum vitae which sets out my other professional experience.
3. I make this statement in response to the request of the solicitor assisting the Royal Commission dated 8 November 2019 (**Request**) and pursuant to a Notice to Produce dated 10 December 2019.
4. I have prepared this statement from my own knowledge. I have sought access to any documents produced to the Royal Commission by either the VGSO or Victoria Police that are relevant to me, but have not been provided with any such documents.
5. The VGSO did not identify any documents produced to the Royal Commission involving me. The VGSO did identify two matters from its time management records (with file names to the effect of "Milad Mokbel" (**Mokbel Matter**) and "Antonio Mokbel – AFP Committal 2004" (**Mokbel AFP Committal Matter**)) potentially relevant to the Royal Commission's inquiry, but was unable to locate any files (electronic or physical) relating to those matters.
6. I address the Mokbel Matter and the Mokbel AFP Committal Matter in paragraphs 22 to 26 below.
7. Victoria Police identified one document relating to me which I was advised did not relate to a public interest immunity matter involving Nicola Gobbo. I have not been shown this document prior to making this statement.



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

Employment with the VGSO

8. As is described in my curriculum vitae, I worked at the VGSO's Administrative branch between about March 1987 and December 1987. I do not recall being involved in any matters in this role which are relevant to the Royal Commission's Inquiry.
9. I address my employment at the VGSO between about January 2003 and October 2007 below.
10. During my time at the VGSO, I worked at its Police Branch, which was an out-posted legal team situated at the headquarters of Victoria Police at Flinders Street, Melbourne.
11. Whilst I was employed by the VGSO, my title at the VGSO Police Branch was Deputy Legal Advisor to the Chief Commissioner of Police. In that role, I reported to David Stevens, Assistant Victorian Government Solicitor (**AVGS**) of the VGSO Police Branch, whose title was Legal Advisor to the Chief Commissioner of Police.
12. My principal duties as Deputy Legal Advisor to the Chief Commissioner of Police were to:
 - (a) provide oral and written legal advice to Victoria Police Command;
 - (b) provide oral legal advice to regional police on a rostered basis with other VGSO Police Branch solicitors;
 - (c) provide legal support to Victoria Police Command in Committee meetings and any other meetings as required;
 - (d) make chamber appearances in the Supreme Court of Victoria and the Administrative Appeals Tribunal in support of applications by Victoria Police for the use of surveillance devices, tracking devices and telephone intercepts, which appearances formed part of each VGSO Police Branch solicitor's rostered duties; and
 - (e) make applications on behalf of Victoria Police in various jurisdictions to claim public interest immunity as a ground of objection to the production of documents or the adducing of evidence under subpoena in court proceedings relating to Victoria Police investigations.



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

13. Throughout 2006 and 2007, I recall providing general legal assistance to the Witness Security Unit of Victoria Police (**Witsec**).
14. I recall providing legal advice to Witsec with respect to the management of a prosecution witness before and subsequent to his entry into the Victorian witness protection program (**Program**), including advice on the authority of the Chief Commissioner of Police (**CCP**) to remove a witness from the Program (which had ultimately resulted in litigation with respect to the CCP's exercise of that power).
15. The litigation mentioned in paragraph 14 was:
 - (a) commenced by the witness who I understand sought compensation from Victoria Police and the Australian Crime Commission pursuant to his agreement to provide information to Victoria Police and the Australian Federal Police; and
 - (b) was conducted on behalf of the CCP by another branch of the VGSO (presumably the Litigation Branch) which took its instructions from the Victoria Police Legal branch (as distinct from the VGSO Police Branch) and not by me or any other solicitor employed at the VGSO Police Branch.
16. During my time at the VGSO, my general understanding of Witsec's work was that it protected witnesses who were either in the process of transitioning into or were already within the Program as opposed to witnesses who were not in the Program and/or were not transitioning into the Program.
17. I did not provide legal advice to Victoria Police about witnesses who were neither transitioning or already within the Program. In this regard, I understand Ms Gobbo did not enter the Program (nor was she already in the process of transitioning into the Program) at the time I was employed by the VGSO.
18. Against the description of my position at the VGSO Police Branch set out above, I now address each of the matters raised by the Royal Commission in its Request.



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

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 or assistance to Victoria Police, including when that occurred and in what circumstances that occurred.

19. During my time at the VGSO, I did not have any knowledge, nor was I given reason to suspect or believe, that a person (including Ms Gobbo) who had ongoing legal obligations of confidentiality and privilege was providing information or assistance to Victoria Police.
20. In this regard, I cannot recall any instance during my time at the VGSO where I read primary investigative material, correspondence and affidavits or exhibits in which I learnt or was given reason to suspect or believe that a person who had ongoing legal obligations of confidentiality and privilege was providing information or assistance to Victoria Police.
21. As to Ms Gobbo:
 - (a) I recall I first became aware that Ms Gobbo was providing information or assistance to Victoria Police and was a human source as a result of the IBAC inquiry conducted by the Honourable Murray Kellam (**IBAC Inquiry**). I learnt about the IBAC Inquiry in the course of my employment at the Victorian Inspectorate which oversees IBAC's performance of its functions under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) and other laws. I was not given any duties by the Victorian Inspectorate with respect to the conduct of the IBAC Inquiry.
 - (b) I do not recall being involved in any matters during my employment at the VGSO relating to Ms Gobbo and/or her provision of information or assistance to Victoria Police;
 - (c) I have no personal knowledge of her; and
 - (d) to the best of my recollection, I have only ever had one professional encounter with her - Ms Gobbo appeared in a matter in the Magistrates Court of Victoria as counsel for a defendant although I cannot now recall the matter save that the proceeding may have been adjourned or otherwise administratively dealt with by consent on that occasion.



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

22. I sought access to any documents produced to the Royal Commission by the VGSO involving me so that I could determine whether there was any information in those files that I may have read which ought to have given me reason to suspect or believe that a person who had ongoing legal obligations of confidentiality and privilege was providing information or assistance to Victoria Police. As mentioned in paragraph 5 above, the VGSO has not identified any documents involving me which may be potentially relevant to the Royal Commission's inquiry. I address the Mokbel Matter and the Mokbel AFP Committal Matter to the best of my recollection below.
23. The VGSO's time management system record for the Mokbel Matter indicates that:
- (a) I am the 'Person Acting' and David Stevens, AVGS of the VGSO Police Branch, is the 'Person Responsible';
 - (b) the 'work-type' was 'Subpoenas'; and
 - (c) the file was opened on 17 August 2006 and closed on 15 August 2007.
24. The VGSO's time management system record for the Mokbel AFP Committal Matter indicates that:
- (a) I am the 'Person Acting' and David Stevens, AVGS of the VGSO Police Branch, is the 'Person Responsible';
 - (b) the 'work-type' was 'Crime (Serious)'; and
 - (c) the file was opened on 1 January 2004 and closed on 21 February 2014.
25. Without the benefit of inspecting any relevant documents comprising the file for the Mokbel Matter, I am unable to recall the matter or the specific issues the subject of it. I have described at paragraph 12(e) above the general work solicitors employed at the VGSO Police Branch undertake in relation to subpoenas issued to Victoria Police, but I cannot recall the specific nature of my involvement in the Mokbel Matter.
26. Without the benefit of inspecting any relevant documents comprising the file for the Mokbel AFP Committal Matter, I am unable to recall the matter, the specific issues the subject of it or my role, if any, in that matter.



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

27. I do recall the Australian Crime Commission acting on behalf of the AFP in a committal that involved the evidence of a witness who, at the time of the committal (which to the best of my knowledge was in 2007, although I cannot specifically recall), was transitioning to the Program. I provided legal advice through the VGSO Police Branch to Witsec in relation to this witness. To the best of my knowledge (although I cannot specifically recall), the advice I provided did not relate to the Mokbel AFP Committal Matter but rather to another Committal proceeding.

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 that occurred.

28. See above.

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

29. See above.

Given the Commission's first two terms of reference, namely:

- a. The number of, and extent to which, cases may have been affected by the conduct of Nicola Gobbo as a human source.**
30. In light of the matters set out above, I do not have any knowledge of cases that Ms Gobbo may have affected by her conduct as a human source.
31. I was aware as an employee of the VGSO Police Branch that a number of investigations and prosecutions were being conducted by Victoria Police and the Director of Public Prosecutions that involved 'gang land' identities but had no knowledge of what investigations or prosecutions may have been affected by the conduct of Nicola Gobbo as a human source .
- b. The conduct of current and former members of Victoria Police in their disclosures about and recruitment, handling and management of Nicola Gobbo as a human source.**
32. In light of the matters set out above, I have had no involvement in the disclosure of Ms Gobbo's role as a human source.



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

The Commission would be assisted by you providing any further details of any other matters within your knowledge potentially relevant to those terms of reference

33. Aside from the legal assistance I provided to Witsec (under the supervision of the AVGS of the VGSO Police Branch and Legal Advisor to the Chief Commissioner of Police, David Stevens), I have no further details of any other matters within my knowledge.
34. As stated above, I have made this statement solely from my own knowledge. If documents relevant to me are identified, I may seek the opportunity to prepare a supplementary statement addressing those documents.

Dated: 11 December 2019



.....
Diane Preston

Diane Preston

EDUCATION

MacRobertson Girls High School

Matriculated 1976

University of Melbourne

Bachelor of Arts (Major in Philosophy) Graduated 1982

University of Melbourne

Bachelor of Laws, Graduated 1985

QUALIFICATIONS

Admitted to practice as a Barrister and

Solicitor of the Supreme Court of Victoria in March 1987

Admitted to practice in the High Court of Australia in 1992

COMMUNITY INVOLVEMENT

St Kilda Legal Centre

Volunteer, 2012 to present; and

Board member, 2016 to present

Rationalist Association of Australia

Board Member, 2008 to 2016

Public sector professional memberships

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

WORK EXPERIENCE:

FROM JUNE 2013 TO PRESENT: PRINCIPAL LAWYER /STRATEGIC ADVISOR (2019)

VICTORIAN INSPECTORATE (VI)

Responsibilities

- Support the Inspector by providing authoritative, timely oral and written legal strategic policy and operational advice in the oversight of the integrity agencies in Victoria including the Independent broad-based Anti-Corruption Commission, the Ombudsman and the Office of the Chief Examiner.
- Support the Inspector in the business and strategic planning of the Inspectorate.
- Build and maintain effective relationships with key stakeholders and personnel in the integrity regime while ensuring the continued independence of the Inspectorate.
- Manage a team of lawyers and policy officers in the oversight of integrity agencies
- Conduct inspections, perform audits and produce reports about the legislative compliance of integrity agencies.
- Assess the complaint management policies and procedures of integrity agencies, particularly IBAC and the Victorian Ombudsman resulting in reports about the lawfulness and appropriateness of those policies and procedures.
- Manage the VI's oversight of the performance of IBAC under the Protected Disclosures Act 2012 (PDA) and the oversight of the procedures created by certain integrity agencies for the receipt of disclosures under the PDA.
- Co-ordinate and contribute to the production of the annual report with respect to the monitoring of integrity agencies by the VI.
- Respond to legislative amendment proposals and make submissions to Parliamentary bodies on legal and policy matters in the integrity system

FROM NOVEMBER 2012 AND FEBRUARY 2013:

MANAGING SOLICITOR AT THE VICTORIAN BUILDING AUTHORITY (VBA)

Responsibilities

- Provide legal advice to the investigations and compliance unit of the VBA and appear on behalf of the VBA in the prosecutions of building practitioners under the Building Act 1993.

FROM NOVEMBER 2011 TO OCTOBER 2012:

NATIONAL OFFICE OF THE AUSTRALIAN HEALTH PRACTITIONER REGULATION AGENCY (AHPRA)

Responsibilities

- Provide legal advice as a contractor to AHPRA and the National Boards in relation to legal, policy and procedural issues.
- Review policies, registration standards, codes and guidelines

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

- Contribute to the development of policy in projects initiated by the National Legal Office.

FROM OCTOBER 2007 TO AUGUST 2011:

MANAGER OF THE COURT ADVOCACY UNIT

DEPARTMENT OF HUMAN SERVICES, LEGAL SERVICES BRANCH

Responsibilities

- Lead and managed a large team of lawyers in the delivery of litigation services to advocate the administrative decisions of the Secretary of the Department in child protection matters.
- Provide practical strategic advice to metropolitan regions and Children Youth and Families Division in managing complex applications for child protection.
- Create effective relationships with external stakeholders and participate in the formulation of service delivery in the Children's court.
- Appear and instruct in highly sensitive litigation as well as provide strategic advice to the Director of legal services in relation to that litigation.

Achievements

- The development of operational practices and procedures for the co-ordination of mention matters in the Children's Court through the introduction of a litigation management system.
- The creation of an organisational and supervision structure for legal officers appearing in the Children's Court.
- Instructor and advocate in administrative law proceedings on behalf of the Secretary in the Supreme Court.
- Building internal and stakeholder relationships especially with Victoria Legal Aid.
- Implementation of a new Moorabbin Children's Court practice built on the litigation management system in the City.

FROM JANUARY 2003 TO OCTOBER 2007: DEPUTY LEGAL ADVISER TO THE CHIEF COMMISSIONER OF POLICE

VICTORIAN GOVERNMENT SOLICITOR'S OFFICE: POLICE OUTPOST

Responsibilities

- To provide strategic practical legal advice to Victoria Police Command through the Office of the Chief Commissioner.
- To support the Deputy Commissioner and Assistant Commissioners on stakeholder and internal policy committees.

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

- To appear and instruct on behalf of the Chief Commissioner and informants before the State Courts and Federal Tribunals particularly in public interest immunity proceedings and applications for telephone interception and surveillance device warrants.
- To develop implement and report against business and performance plans for the effective delivery of legal services in the Legal Advisors Office.
- To work within the business charter and governance principles of the VGSO.

Achievements

- Relied upon and known by Command to provide operational legal and policy support across major business units of Victoria Police under the pressure of time in areas of sensitivity.
- I was the a key advisor from VGSO to Command in matters that involved the Office of Police Integrity (OPI) particularly in the use made of OPI material in criminal investigations.
- Key advisor from to the Witness Security Unit

FROM JULY 1998 TO OCTOBER 2000: MANAGER, PROSECUTIONS UNIT VICTORIAN WORKCOVER AUTHORITY (VWA)

Responsibilities

- Manage and implement the business plan of the unit.
- Manage a team of 8 Solicitors and 3 legal assistants.
- Manage all prosecutions of the Authority under the Accident Compensation Act, the Occupational Health and Safety Act and associated legislation as well as the Crimes Act.
- Develop and implement strategies with the Investigations Unit to effect strategic Investigations.
- Conduct complex and sensitive prosecutions.
- Administer the budget of the Unit.

Achievements

- Managed the review of the remuneration of solicitors in the unit against that of the market and implemented the recommendations of external legal recruitment consultants.
- Managed the Esso Longford investigation and prosecution team up to committal.
- Managed the early investigation and liaison with stakeholders in the Legionnaire cases at the Melbourne aquarium.

FROM OCTOBER 2000 TO DECEMBER 2002: BRANCH MANAGER VWA, COMPLIANCE BRANCH, REHABILITATION AND COMPENSATION UNIT

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

Responsibilities

- Establish, lead and manage four operational units (analysis, investigations, prosecutions and recoveries).
- Develop and implement business plans with transparent KPI's and targets.
- Ensure the effective delivery of compliance and enforcement policies guidelines and procedures on behalf of the VWA.
- Manage a budget of \$3 Million.
- Provide legal and strategic advice to the Rehabilitation and Compensation Business unit of the VWA on criminal and recovery compliance matters including authorisation of prosecutions.
- Contribute to the development of procedures and protocols for the management of recovery litigation conducted by external panel legal firms.
- Provide investigative support to the Claims management and Common Law Divisions.

Achievements

- Following the division of the VWA into the business of Occupational Health and Safety and the business of Compensation and Rehabilitation, I built the compliance branch with analytical, investigative and legal capability to serve the compliance needs of the Rehabilitation and Compensation business. Further I integrated the pursuit and litigation of third party recovery matters into the business of the Branch.

FROM JULY 1994 TO JULY 1998: MEMBER

RESIDENTIAL TENANCIES TRIBUNAL AND SMALL CLAIMS TRIBUNAL OF VICTORIA (BEFORE VCAT)

Responsibilities

- Hear and determine disputes between landlords and tenants, rooming house owners and residents.
- Hear and determine contractual disputes between consumers and traders.
- Conduct preliminary directions hearings, mediations and case conferences.
- Deliver written decisions to parties on matters of Property and Contract law.
- Provide assistance to the Chairman in the development of policies which effect the operations of the Tribunals.

Achievements

- Chaired the Members Listing Committee. Recommended policies for effective listing methods to utilise the sittings of members.
- Liaised and trained user groups including the Real Estate Institute of Victoria, the Tenants Union and the Rooming house Association.
- Recommended policies to address the case management of undefended matters: including a recommendation to the Attorney General for a default process in undefended matters.

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

**FROM DECEMBER 1991 TO JUNE 1994: SENIOR LAWYER
ACCIDENT COMPENSATION COMMISSION**

Responsibilities

- Determine whether there is sufficient evidence to lay charges or take civil action against workers, doctors, service providers or employers alleged to have defrauded the WorkCover scheme.
- Provide operational and legal advice to the Investigations and Common law Units.
- Appear on behalf of the Authority and instruct counsel in the courts of Victoria.

Achievements

- Established a close working relationship between the legal and the investigation branch. Provided legal and strategic support where there was evidence of fraud or abuse in the conduct of common law litigation.

**FROM JANUARY 1991 TO DECEMBER 1991: LEGAL OFFICER
OFFICE OF FAIR TRADING (FORMERLY MINISTRY OF CONSUMER AFFAIRS)**

Responsibilities

- Manage the Section reporting to the Solicitor to the Ministry of Consumer Affairs. The Section focussed on breaches of the Fair Trading Act, Motor Car Traders Act, Finance Brokers Act, Goods Act, Residential Tenancies Act and other consumer legislation.
- Appear on behalf of the Ministry in the courts of Victoria.
- Provide advice to the Director of Consumer Affairs, Solicitor to the Ministry of Consumer Affairs and the Minister of Consumer Affairs on high profile sensitive litigation and prosecutions.

Achievements

- Implemented a court diary system for effective case management.
- Successfully appeared as counsel against a group of finance brokers (four defendants) who attempted to enter into a scheme involving upfront fees developed in the US to defeat the interests of Victorian investors

**FROM APRIL 1988 TO DECEMBER 1990: LEGAL OFFICER
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**

Responsibilities

- Appear and instruct on behalf of the Commonwealth in the Supreme, County and Magistrate's courts in a variety of matters in fraud and drug related matters. I

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

conducted bail applications, committal proceedings, extraditions and appeals against sentence.

- Recommend the prosecution of individuals according to Commonwealth prosecution guidelines. I was also involved in the periodic review of these guidelines.

Achievements

- Appearance as counsel in the County Court in a Director's appeal against sentence in a fraud prosecution.
- Prepared appeared and liaised with international authorities for the extradition of a drug dealer from the USA to Australia.

FROM MARCH 1987 TO DECEMBER 1987: LEGAL OFFICER VICTORIAN GOVERNMENT SOLICITOR'S OFFICE, ADMINISTRATIVE LEGAL OFFICE

Responsibilities

- Act for respondent government departments in appeals before the Administrative Appeals Tribunal (AAT) from decisions of the departments to exempt documents under the Freedom of Information Act.
- Appear before the Crimes Compensation Tribunal and prepare appeals from the Crimes Compensation Tribunal to the AAT.

Achievements

- My contribution to the settling of the "Picasso case" which came before the AAT as an FOI request by a suspect to inspect the police brief.

FROM MARCH 1986 TO DECEMBER 1988: TUTOR IN LAW ORMOND COLLEGE, MELBOURNE UNIVERSITY

Responsibilities

- Prepared one tutorial per week in criminal law to first year law students. Supervised the progress of those students throughout the academic year.

FROM MARCH 1986 TO MARCH 1987: ARTICLED CLERK H.S.W. LAWSON HUGHES & COMPANY

Responsibilities

- Received training in general legal practice, and undertook legal research for partners, particularly in new developments in personal injury legislation.

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

**FROM MARCH 1982 TO LATE 1983: RESEARCH ASSISTANT
(FORMER) INSTITUTE OF MULTICULTURAL AFFAIRS**

Responsibilities

- Undertake policy research tasks related to the Institute's Review of Commonwealth Manpower Programs and Services concentrating on the needs of young women from migrant and refugee backgrounds and outworkers. Collected demographic data and visited community based programs.
- Assisted Justice Gobbo in the preparation of a paper on the 'reasonable man' as used in the civil and criminal law in the context of Australia as a multicultural society.

**FROM MARCH 1983 TO MARCH 1984: PART TIME INFORMATION ASSISTANT
WORLD TRADE CENTRE**

Responsibilities

Provide information to the public in the marketing of the World Trade Centre, Port of Melbourne Authority in its early stages of development.