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**ROYAL COMMISSION  
INTO MANAGEMENT OF POLICE INFORMANTS**

**Statement of Alan Swanwick  
Pursuant to Notice to Produce NP - 180**

**Part A: Preface**

1. By letter of 1 May 2019, received by me on 3 May 2019, I have been requested ("the request") by the Commissioner of the Royal Commission into the Management of Police Informants to prepare a statement addressing various matters and to do so by 7 May 2019.

The scope of the request is such that I would have difficulty responding adequately within the available time even if I had full records available to me of the matters which are the subject of the request. In fact I have no records whatsoever of those matters. All documentary material which I once held was destroyed many years ago. I saw no reason to retain any of it and did not do so. Any statement which I provide necessarily will be produced from my memory of events between about 14 years and 24 years ago.

2. Undoubtedly there are documents still in existence, including documents which I created, which set out the events of that period in more detail and with greater accuracy than can be recreated from my memory. Some of those documents will be in County Court files relating to the sentencing of [REDACTED] for drug-related offences somewhere around 2000-2004, and in court files preceding his sentencing (for example, a bail application after he was arrested [REDACTED]). Others will be in County Court files relating to an application by the same man for (as I recall) relief from forfeiture of some of his property under confiscation legislation at around the same time. I have a recollection that in relation to both of those matters I produced relatively lengthy and detailed affidavits setting out the course of my dealings with [REDACTED]. Some of that material would have touched either directly or tangentially on dealings with Peter De Santo and Wayne Strawhorn and others named in the request. It would be helpful to me to have access to that material. I am not in a position to gain access to it. The Commission might be better placed to do so if it wishes to receive more accurate and comprehensive information than I will otherwise be able to produce.
3. All of the following material is subject to the limitations and qualifications mentioned above.

**Part B: Matters relating to Nicola Gobbo**

4. I refer to paragraph 10 of the request.
5. I have had extremely limited involvement association or contact with Nicola Gobbo. To the best of my recollection I have only met her two or three times. That was in the



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period after Tony Mokbel had been arrested and before he had absconded: I do not know what years are covered by those events, but it was probably in the late 1990's or a couple of years thereafter. I was briefed as junior counsel to Con Haliotis QC on a case having no connection to Mokbel or matters being considered by the Royal Commission. I met with Haliotis several times in his chambers and I noticed large numbers of folders bearing the name 'Mokbel'. I realised that he was representing Mokbel and I told him that I was [REDACTED]

[REDACTED] We agreed that there was no conflict of interest which would prevent me working with Haliotis on the unrelated matter, and we would simply not discuss Mokbel's matters. At a later stage Haliotis mentioned to me that Mokbel had told him he had 'no problem' with me arising from [REDACTED] I believe that was shortly after I had been given reason to believe that Mokbel did indeed have such a 'problem'.

6. During the time I worked with Haliotis – probably no more than a few weeks or perhaps spread over a few months – I met Gobbo on two or three occasions at Haliotis's chambers. I think I was aware she was working with Haliotis on Mokbel's matters. The meetings I had with Gobbo were brief and unexceptionable. There is nothing I recall of them which is at all memorable. I have no specific recollection of meeting with Gobbo outside that context.

7. I refer to paragraph 11 of the request.

I do not recall that I had any inkling that Ms. Gobbo was providing information or assistance to Victoria Police until publicity started to emerge about the matter recently. At about the time I met her, or shortly thereafter, there were some rumours around the profession relating to Ms. Gobbo's personal life, suggesting that she was having sexual relations with police, members of the legal profession, and some of her clients. I paid little attention to those rumours, firstly because they did not interest me, and secondly because I regarded with some scepticism rumours which appeared typical of the way the profession tried to place obstacles in the way of female practitioners including by circulating sexual innuendos about them.

8. I refer to paragraph 12 of the request.

I have no information additional to that which has emerged through the media relating to disclosures which Gobbo might have made to Victoria Police, or as to the number of cases which may have been affected by her conduct, or as to the conduct of police dealing with her.

**Part C: Provision of information to Victoria Police, and protocols for dealing with it**

9. Under this heading I am not dealing with any matters arising out of my representation of [REDACTED] Those matters are dealt with separately in this statement.
10. I refer to paragraph 8 of the request.





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I have occasionally had reason to report actual or suspected criminal activity to police in the course of my ordinary conduct as a citizen, unassociated with my role as a lawyer. On a couple of occasions I or members of my family have been victims of crime, and I have reported those matters to police in the ordinary course of events. For example over the years my daughter's bike was stolen; my house was burgled; my wife's car was stolen; one of my daughters was assaulted etc. I assume these are not matters in which the Royal Commission has an interest, but I mention them because they fall strictly within the terms of the request.

Likewise somewhere around 2009 I became aware via a client of the activities of a person who was "conning" a number of people of their money via an elaborate scam. I encouraged my client (who was a victim) to report him to police, and I provided police with a statement of my knowledge and observations of this person's activities. He was later charged and convicted. Once again I assume that these and similar matters are not of interest to the Commission albeit that they fall strictly within the terms of the request.

11. Other than as set out above, and as outlined in relation to [REDACTED] I do not recall ever providing Victoria Police with information about actual or possible criminal activity including any such matters of which I learned via my professional relationship with my clients, other than with the express consent of the client concerned.
12. I refer to paragraph 9 of the request.

On some occasions my clients have revealed to me details of criminal activity engaged in by others. That has sometimes led to a discussion of whether the client should reveal all or some of those matters to police, usually in the context of either reducing the charges faced by my client or providing mitigatory material to a court dealing with my client. Sometimes I have recommended that my client inform the police of those matters, and at other times I have not made that recommendation. My advice relates principally to my client's interests: whether the possible advantages of revealing the information outweigh the possible risks of doing so – including risks to personal safety as well as any legal risks.

13. I am aware that the protocols for dealing with police informers are quite different now from what they were 20 years ago. I have had one recent experience which in part provides me with some comfort about the protocols, and in another respect leaves me with concerns. I set it out hereunder because it seems to fall within the Royal Commission terms of reference.

- (a) About 18 months ago I acted for a client ("John") who had been involved in an assault-type situation. I considered that his conduct as he described it to me might be a case of 'citizen's arrest' involving attempting to capture a person whom he had found in the act of committing a serious offence; but on the other hand his actions in making that attempt might have been sufficiently excessive as to amount to an assault-type offence. I advised him to tell police, when they questioned him, precisely what had happened. He did so, and he was charged




with serious assault offences. The police 'summary of facts' made no mention whatsoever of the circumstances as he had described them, omitting all reference to the offending by the 'victim' which had been interrupted by my client. It was made to appear as an unprovoked assault. Police (including prosecutors) appeared to be 'stonewalling' and would make no concessions at all relating to the highly mitigatory circumstances surrounding my client's actions. I was nonplussed.

- (b) 'John' then told me that upon his arrest he was [REDACTED] [REDACTED] police from a different and [REDACTED]. Those police said [REDACTED] and they wanted 'John' to assist them [REDACTED]. The quid pro quo was that when John's own assault matters were dealt with, the Court would [REDACTED] the assistance which he had provided to police. However John was required to keep the arrangement completely confidential; there would be [REDACTED] confirming his activities or [REDACTED] and [REDACTED] [REDACTED]
- (c) 'John' agreed to the arrangement and commenced gathering and passing information to the police – including [REDACTED] [REDACTED] – all without the benefit of having obtained any legal advice and with no form of assurance that his rights were being protected in any way. It was only when the prosecution of the charges against him ran into a prosecutorial 'brick wall' that he informed me of what was going on. I spoke to the police prosecutors confidentially about what was happening, but that had no impact: there was a complete unwillingness to alter the 'summary of facts' despite the fact that there was substantial evidence supporting John's account of events and which might lead either to an acquittal or to a much-reduced penalty. It was quite apparent that they would concede nothing about his case because it might reduce the incentive for John to keep cooperating. The position was made more complicated by the fact that the principal person that police were interested in was a person [REDACTED]. That fact raised a myriad of potential legal problems if John's matters went to trial.
- (d) I became sufficiently concerned that I handed to the magistrate at a Contest Mention a memorandum describing what was going on. The magistrate was extremely taken aback and instructed the prosecutor to look into the matter forthwith. I then made a formal complaint to Ethical Standards about the matter, because I was unconvinced that the prosecutors would change their attitude.
- (e) The police 'handling' John were furious that he had [REDACTED] [REDACTED] and that it had been reported to ESD, and had several heated discussions with him about it.





- (f) Ethical Standards ultimately decided that all the correct protocols had been observed. The police prosecutors then decided it was appropriate to make very substantial amendments to the charges and the summary of facts against 'John', making it clear that 'John' had in fact been attempting to prevent a serious crime from occurring and his only mistake was to be a bit over-vigorous in attempting to apprehend the perpetrator. The police who had been handling 'John' met with me shortly before the court case where John pleaded to the reduced charge, and showed me [REDACTED] It made it clear that 'John' had provided substantial assistance to police, and that assistance was detailed in the [REDACTED] an [REDACTED] etc. They also told me that the outcome of the most important part of his assistance was still pending, and that rather than [REDACTED] at present they would allow it to come to fruition and then recommend him for a financial reward.
- (g) All of that happened. The magistrate heard the revised summary of facts; [REDACTED] [REDACTED] commended 'John' for his public-spirited attitude in attempting to capture the perpetrator; and gave him a minimal penalty. Some time later John was recommended for and (I believe) received a financial reward via VicPol for the further assistance which he provided to them.
- (h) There are three aspects which concern me.
- (i) The principal matter is that John was firmly instructed that under no circumstances was he to [REDACTED] that any such arrangement was being offered or was in place. (That was confirmed to me by the police at the time I was shown the [REDACTED] The decision by someone in John's position as to whether he should accept the police offer is one which can have a substantial impact on his legal rights – as well as on his personal safety. It is not an offer which he should be required to accept or reject [REDACTED] and in a position where his bargaining power is dramatically reduced in an interview room at a police station! Any adequate protocol must provide for the proposed informer to [REDACTED] Moreover, that must be an ongoing opportunity to [REDACTED] so that the informer can (for example) seek assurance that in relation to various kinds of assistance being requested he/she is adequately protected; and so on. The types of circumstance in which an informer might need [REDACTED] are endless. If the police do not want the informer's [REDACTED] then there must be provision for some other [REDACTED] to be available – e.g. some special unit [REDACTED] or similar body.
- (ii) The fact that John was assisting police – and especially the fact that he [REDACTED] – was known only to the police. This meant that John's entire welfare was dependent on the police acting in good faith. If they had decided to 'cut him loose' and deny he was part of a police operation he could potentially have been charged with [REDACTED] [REDACTED] That is, there was no separate or independent confirmation of
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his status as assisting police. His entire safety depended on the bona fides of the police concerned – and as has been well demonstrated, that is sometimes a very insubstantial foundation (see Part D hereunder).

- (iii) No regard seems to have been given to John's rights in relation to the assault matters which he was facing, or as to how acceptance of the police offer might narrow his legal options. It was simply assumed that he'd plead guilty and receive the benefit of [REDACTED]. In fact it was finely balanced as to whether he was going to plead not guilty and contest the charges – but that was made very complicated because of the police refusal to acknowledge that their summary of facts was substantially wrong, and because their principal target was [REDACTED]. That latter fact raises significant legal and ethical issues.

These are all matters where the whole arrangement could potentially have gone catastrophically wrong from John's viewpoint – but he was left unprotected until he disobeyed his police handlers and told his lawyer what was going on.

In my opinion this is a case which, while it ultimately turned out well for all concerned, clearly demonstrates serious gaps in the protocols for providing adequate protection to those assisting police.

#### Part D: The [REDACTED] saga

14. Under this heading I deal with paragraphs 1-7 of the request. I reiterate my earlier comments about the difficulties of giving an accurate statement when relying on distant memory.
15. Somewhere around the mid 1990's I was briefed to act for a person who, to the best of my knowledge, was named [REDACTED]. He had been charged with a very large number of fraud and deception charges. I represented him at his committal hearing and had something like half the charges dismissed. He was committed for trial on the remaining charges. I was then briefed in the County Court phase of the proceeding. As I recall, I negotiated a further reduction in the charges and [REDACTED] pleaded to the remainder. I made the plea on his behalf, and a jail term was imposed – I do not recall the time to be served.
16. Although my memory of the sequence of events is unclear I think I acted for [REDACTED] in two other matters between then and about 2000. One was dealing with fraud charges in [REDACTED] which I think were dropped. Another involved acting for him in a matter involving his girlfriend [REDACTED]. I cannot now recall whether it was an application by her for [REDACTED] or something similar.
17. There was then an interregnum until about 2000 when I was approached by [REDACTED] (who might by then have been using the name [REDACTED] for advice. He told me that a friend of his, [REDACTED] had recently been shot to death and at the time was driving a car registered to [REDACTED]. He thought that the Homicide Squad might be looking





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for [REDACTED]. He gave me some limited background to his friendship with [REDACTED] which made it clear he was not in any way involved in the shooting. I gave him some advice as to what he should do in those circumstances.

18. At a later time – I cannot now recall the timing – I was contacted either by [REDACTED] or Victoria Police and informed that he had been arrested on serious drug charges. He was then at the police building in St. Kilda Road and he needed my assistance. I attended the police station and was met by and spoke to a number of police from the then Drug Squad. It is possible, but I am not completely certain that one of them was Wayne Strawhorn, and I am fairly sure that Stephen Paton was there with Malcolm Rosenes and others. I don't recall what other police were there. The officer whom I recall as possibly being Wayne Strawhorn explained that [REDACTED] had been arrested with substantial commercial quantities of drugs, [REDACTED] and assorted paraphernalia, and was facing a very lengthy sentence. I was shown photos of the various things which had been seized. It was then explained to me that they were prepared to give [REDACTED] a chance to minimise the consequences of his conduct. The police were prepared to arrange that he [REDACTED] [REDACTED] agreed to become a police informer and to actively assist them in gathering information against some major players in the drug industry. The names [REDACTED] were mentioned. It was acknowledged that [REDACTED] role if he adopted it would place him in considerable danger. It was said that if he was successful and his activities led to major arrests his own sentence might be far reduced or even eliminated, and he could even move into the realm of earning a reward. I asked what verification there would be of this arrangement, for [REDACTED] protection and to ensure his efforts were in fact properly acknowledged. I was told that I would be given nothing in writing because of security concerns, but that the Director of Public Prosecutions would be aware of it and I could discuss it with him. It was said that whenever such an operation came to an end [REDACTED] would be given all necessary [REDACTED] and that it would probably not be necessary for his identity ever to be revealed.
19. I had a very long discussion with [REDACTED] that night about the advantages and disadvantages, risks and opportunities, of accepting the police offer. He ultimately decided to accept the offer and become a police informer for the purposes set out above.
20. Shortly thereafter there was a bail hearing at which [REDACTED] was granted bail [REDACTED] [REDACTED] I understand that Robert Richter had been briefed to act for [REDACTED] at the hearing. I am unaware of what Richter knew of the background. I understand that bail was either unopposed or only nominally opposed.
21. Although I do not recall the exact sequence of events I recall that shortly thereafter I had a meeting with the Director of Public Prosecutions, Paul Coghlan, in company with one of his senior officers. Again I sought some form of documentation of the arrangement, for the protection of [REDACTED] I was told that no such documentation would be provided because of the security implications, but that I could take the word of the DPP that all agreements would be honoured. There was specific reference to the possibility of [REDACTED] assistance being sufficiently valuable to earn a DPP



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- recommendation that he be given a non-custodial sentence in relation to his offending. I recall there was discussion of the need for [REDACTED] committal process to be seen to be moving forward so that none of his criminal associates would get suspicious, but that it would be handled in such a way in court that [REDACTED] so that [REDACTED] would have time to fulfil his role as an informer. After that meeting I told [REDACTED] that there would be no documentation provided, but that a personal assurance from the Director of Public Prosecutions was something he could rely on. Later events would prove that confidence to have been misplaced.
22. At a relatively early stage – and again I am unsure of the exact sequence – [REDACTED] told me that he had attended a meeting with [REDACTED]. He was scathing in his assessment of what was being offered. He said they seemed to have no appreciation of the magnitude of the risk, or of the reach of the people who would be looking for him at the end of the operation. He rejected whatever had been offered [REDACTED]. At a later stage discussions were opened, conducted, and concluded with [REDACTED]. [REDACTED] I personally participated quite fully in those discussions, and thus was very taken aback when it was later flatly denied that any such arrangements had been reached with [REDACTED]. I knew that to be false.
23. [REDACTED] met with me in my chambers on several occasions to let me know, in general terms, what was happening. I did not want any details for obvious reasons, but he explained that he was meeting with key targets [REDACTED] discussing drug transactions, and so on. He was extremely anxious [REDACTED] to such meetings, because if it was [REDACTED] his life expectancy would be very short. On a couple of occasions I had telephone discussions with Stephen Paton who told me that [REDACTED] was performing well beyond their expectations and the information he was providing was invaluable. (I wanted some form of 'progress reports' so I could have an informed view as to how much credit [REDACTED] was building up to offset his own legal problems).
24. Then on one occasion [REDACTED] came to my chambers and explained that he had a significant problem. He said that some of the police who were managing him were themselves conducting their own drug-running operations, and were pressuring him to assist them. My recollection is that at that time or shortly thereafter he identified Paton and Rosenes as being involved. He appeared to me to be very frightened. He explained that he could not refuse to assist them because they could easily reveal his role as a police informer and he would be killed immediately. After discussion it was agreed between [REDACTED] and me that the DPP needed to be informed what was happening. I arranged for a message to be conveyed to Paul Coghlan briefly explaining the situation and stressing that under no circumstances must any step be taken against the corrupt police at that time because to do so would put [REDACTED] life at risk. I recall a subsequent telephone conversation with Coghlan in which he told me that he had no choice but to inform the relevant police authorities of the problem, but that the person he was telling was absolutely trustworthy and of complete integrity and would handle it without risk to [REDACTED].





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Within the next day or two Wayne Strawhorn came to my chambers and said "I hear there might be a problem with a couple of my troops". Strawhorn was the completely trustworthy police officer selected by the DPP to handle the problem. It should come as no surprise that from that moment onwards things went awry.

25. [REDACTED] was very alarmed when he heard that Strawhorn had become involved, because Paton and Rosenes reported to him. I do not know at what stage [REDACTED] became aware that Strawhorn was corrupt, but he was certainly wary of him from the outset and (as later events proved) he did at some stage become aware that Strawhorn was corrupt and he covertly recorded some conversations with him (see para 29 below).
26. As mentioned above, discussions were opened with [REDACTED] I cannot recall the timing but I believe Strawhorn was involved. I personally participated and helped negotiate a concluded [REDACTED] with [REDACTED] authorities. It involved not only [REDACTED] but his girlfriend [REDACTED] with whom he was then reconciled. There is no doubt whatever in my mind that those arrangements were finalised and that [REDACTED] when required. I exchanged emails as well as having telephone conversations with [REDACTED] officers involved, in order to finalise the [REDACTED]
27. [REDACTED] however, was supposedly becoming difficult to manage in the sense that he was not cooperating fully with the demands being made by his police handlers. In my observation he was completely stressed out from the pressure of risking his life on a daily basis, and knowing that his handlers were corrupt and could reveal his role at any time they thought it would be to their advantage. Strawhorn (and I think Paton) spoke to me on a couple of occasions about how annoyed they were because [REDACTED] was not following their directives. [REDACTED] told me that many of the things he was being asked to do put him unreasonably at risk of exposure, and therefore at risk of death. At some time during that period, unknown to [REDACTED] and myself, Strawhorn contacted [REDACTED] and cancelled [REDACTED] apparently on the basis that [REDACTED] was no longer cooperating. At around the same time the DPP suddenly started being a great deal less cooperative in relation to matters to do with [REDACTED] This followed a particular incident when [REDACTED] had learned of the details of the [REDACTED] [REDACTED] It was arranged that this was to be the final involvement by [REDACTED] that the [REDACTED] the perpetrators arrested, and [REDACTED] would go [REDACTED] The operation to [REDACTED] was cancelled by police at the last minute for reasons which appeared to [REDACTED] to be highly suspect, and the [REDACTED] was in fact [REDACTED] and he was left in a position where he was exposed and "at risk". He was told the police operation was continuing and he had to keep doing what he had been doing in gathering evidence. He believed that his life had been placed at risk unnecessarily, and that the failure to [REDACTED] might have been for reasons associated with the corrupt members of the drug squad.
28. With the benefit of hindsight, and admittedly with a certain amount of speculation, I have formed the view that when the DPP misguidedly notified Strawhorn that [REDACTED] was alleging drug-squad members were corrupt, Strawhorn then used the next several months to undermine [REDACTED] and any credibility [REDACTED] had with the DPP. Suddenly I

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started hearing from DPP sources that [REDACTED] was not behaving himself; that he was acting unlawfully; and that he "would not come out of this smelling of roses". Suddenly Strawhorn was dissatisfied with [REDACTED] performance, which until then had been lauded. Then Strawhorn cancelled the [REDACTED] which had been set up for [REDACTED]. Everything points to the fact that [REDACTED] was being undermined by the DPP's "entirely trustworthy" Wayne Strawhorn.

29. [REDACTED] had taken the precaution of acquiring his own recording device, and recording many conversations with the corrupt members of the Drug Squad. At various stages I was the repository of copies of all or some of those recordings, which were on CD. I understand that they were ultimately provided to ESD after that Department became involved (see below), although I have a faint recollection of [REDACTED] suggesting to me that he had not handed over all of the CD's he had made.
30. Somewhere probably about 6 months after the operation had commenced I formed the view that [REDACTED] position had become especially perilous, and he was not being protected from the consequences of his dealings with the corrupt drug squad members. Strawhorn appeared to be antipathetic towards him, and [REDACTED] seemed personally near his breaking point emotionally. I was very concerned for his safety and thought it quite likely that unless there was some intervention his life was at risk. I therefore contacted the Ethical Standards Department of VicPol. I met with Peter De Santo and another officer whose name I do not recall, and explained that I had reason to believe that there were corrupt Drug Squad members. I gave them a brief description of what had been happening- at that stage I think on a no-names basis. We then arranged a further meeting which was attended by [REDACTED] at a [REDACTED]. [REDACTED] told the police enough to convince them that his story apparently had legs, including the fact that he had made recordings of some of his dealings with the corrupt police, and so he entered into an arrangement with Ethical Standards. He was to meet with them and be fully debriefed. He was to continue gathering information against the likes of [REDACTED] for the Drug Squad. He was to continue to appear to be assisting the corrupt Drug Squad police in their corrupt activities; and in addition he was to be gathering information and providing it to Ethical Standards in relation to the corrupt police. The risks to his personal safety in consequence of these multiple roles is very obvious.
31. I was present during the early stages of [REDACTED] debriefing session with ESD at [REDACTED].
32. My recollection of the detail of the subsequent period is not very good. I am aware that [REDACTED] information-gathering on behalf of the Drug Squad continued at a high level. I recall I had one conversation with the DPP – either Paul Coghlan personally or the head of the DPP's Drug section – in which I was pressing to know how much credit [REDACTED] had earned to offset his own problems. I was told that he was close but not yet at a point where he might have earned a complete non-custodial sentence, and that if he could get the information to enable the arrest of [REDACTED] that would tip him 'over-the-line' to a recommendation for a non-custodial sentence. As it turned out, [REDACTED] provided that material within a matter of days thereafter. Needless to say, when





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██████████ matters were eventually the subject of a ██████████ the DPP never acknowledged that a non-custodial outcome was on the cards or had been indicated as a real possibility.

33. The operation came to an end when ██████████ Rosenes was engaging in a drug transaction at a particular place and time, and De Santo decided to make the arrest at that time. The arrest was made that evening, ██████████ ██████████ to ensure that the 'sting' was successful. Paton was arrested a short time later, and other drug squad members followed. As soon as VicPol became aware that ██████████ had been reporting to ESD and that Drug Squad police were being arrested, the operation against ██████████ and others also came to an end and they were arrested and charged with major drug offences based on ██████████ ██████████
34. I am not personally aware of what arrangements De Santo might have made for ██████████ after the operation ended. ██████████ had already ██████████ ██████████ (and in any case his trust of VicPol was understandably at a low ebb), and he probably continued to ██████████ At about that time it was discovered that ██████████ had been cancelled by Strawhorn. Hence it is my understanding that ██████████ was left largely dependent on his own resources in terms of his personal security. At some point De Santo agreed that ██████████ could report on bail ██████████ That was a sensible precaution, but ██████████ later ██████████ without De Santo's knowledge albeit that he ██████████ He explained to me that while he was in Australia he was at high risk of being found and killed. He was ██████████ ██████████ to attend a mention hearing, and remained in custody thereafter until his plea was heard and his sentence was served. On the day after his arrest he was approached by ██████████ and given a warning about ██████████ – I don't recall which. I reported this to De Santo immediately, but I am unaware of what action was taken in consequence.
35. Initially after their arrests ██████████ had no idea of the identity of the informer who had gathered the evidence against them. That changed at one of the early court appearances when the prosecutor revealed ██████████ identity in court in front of ██████████ Within 24 hours there was a \$ ██████████ bounty on ██████████ head. ██████████ was given no notice that his identity was going to be, or had been, revealed. He learned about it after there was already a bounty on him. (This was despite the early assurances given to him that all steps would be taken to try to avoid his identity ever being revealed, including if possible avoiding the need for him to testify against those he had informed against). ██████████ then spent a considerable period in hiding, without assistance, including at least some periods when he was overseas without De Santo's knowledge. (At a later stage ██████████ actually obtained permission to remain overseas for his own safety, so long as he returned to testify against ██████████ ██████████ when called upon to do so. That then became a separate area of dispute when he ██████████ being entirely dissatisfied with the arrangements which had then been made for his own safety – see para 41 below. He was later arrested ██████████



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36. Almost immediately after the arrests of [REDACTED] and Rosenes and others, it became apparent to me that the attitude of the DPP towards [REDACTED] was very antipathetic. The view of that Office was that [REDACTED] committal should proceed apace and there would be no negotiations in relation either to timing or to the charges. The cooperative approach of the previous 9-12 months was gone. Every attempt I made to get the OPP to acknowledge the value of [REDACTED] efforts on behalf of VicPol obtained no response other than veiled references to the fact that [REDACTED] had been 'up to no good' and that he could now take his chances in the usual way through the legal process. I regarded this as a fundamental betrayal of the assurances which I had been given by the DPP. I later came to the view that with suspicion beginning to fall on Wayne Strawhorn in relation to his role in the corrupt activities of the drug squad, the fact that the DPP had regarded him as completely trustworthy and had actually notified him of [REDACTED] concerns, was a potentially major source of embarrassment to that office. Likewise as I gradually discerned that in all probability Strawhorn had been undermining [REDACTED] credibility with the DPP in order to protect his own position, it was also apparent that the revelation of how the DPP had been duped would be a major embarrassment for that office.
37. I formed the opinion, which I still hold, that the disgraceful way [REDACTED] was treated in the aftermath of the arrests of drug criminals and drug-squad members, was due largely to a combination of two things:
- i) Strawhorn's deliberate undermining of [REDACTED] credibility with the DPP in order to protect his own (i.e. Strawhorn's) position and avoid suspicion falling on him in relation to his corrupt activities; and
  - ii) The OPP seeking to avoid the embarrassment which would have been caused if it was revealed that they had been entirely duped by Strawhorn and had placed complete reliance on a person ultimately shown to have been corrupt, including by appointing him as the 'trusted person' to deal with [REDACTED] revelations about corruption in the drug squad.

Those conclusions seem to me to be reasonable inferences from the now-known facts.

38. Peter De Santo, despite being very upset when he found that [REDACTED] had been [REDACTED] nevertheless maintained that he would testify at the appropriate time in relation to the value of [REDACTED] efforts, and would do his best to see that [REDACTED] was given appropriate credit. He honoured that commitment. At [REDACTED] plea hearing De Santo gave testimony outlining the extraordinary situation in which [REDACTED] had been placed; the extraordinary danger which he faced; and the extraordinary results which he achieved. The arrests of [REDACTED] and others were attributed largely if not solely to [REDACTED] and he testified that in the absence of [REDACTED] it is unlikely that the corruption in the Victoria Police drug squad would ever have been uncovered. He suggested that [REDACTED] was perhaps the most important informer that Victoria police had ever had (a mantle which I note has now been claimed by Ms. Gobbo).





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

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39. While [REDACTED] was in hiding after [REDACTED] became aware of his identity I was unaware of his exact location. I could leave an electronic message for him if I needed him to contact me, and he would usually respond within a short time. By that time I had left the Bar and was working as a solicitor at a firm in North Melbourne. One afternoon a man came to my office apparently to seek legal advice. However he then purported to be an emissary from [REDACTED] and he wanted me to reveal [REDACTED] whereabouts so that he and [REDACTED] could have a discussion and "sort out their differences". He hinted that if I acceded to this request I was likely to be generously rewarded, whereas if I did not do so my personal safety might be at risk. I immediately reported the conversation to the Australian Federal Police. I have no proof that he was genuinely an emissary from [REDACTED] as he held himself out to be.
40. Some time after the arrests of the initial drug-squad members (and I cannot be any more precise as to timing) I received a phone call from Peter De Santo. He informed me that ESD had picked up intelligence suggesting that I needed to be more than usually cautious for my own safety, which was under threat. I enquired whether the threat was from the criminals or from the police (to the extent that such a distinction could be drawn). He responded that the threat was from within VicPol. I asked whether the threatened harm was physical or professional, by which I meant having my car searched by police who would then "find" drugs, or suchlike. De Santo said that the threat was physical. In a later court hearing De Santo confirmed the phone call in all respects except that he denied having suggested that the threat emanated from within VicPol. His denial does not cause me to revise my recollection of the conversation.
41. After [REDACTED] served his sentence he was permitted to [REDACTED] for his own safety on condition he [REDACTED]. He notified me of his concerns for his safety when he [REDACTED]. I attempted unsuccessfully to negotiate an arrangement with [REDACTED] which would satisfy both parties.
42. At some stage after [REDACTED] was sentenced an issue arose as to some property of his which had been seized under confiscation legislation. There should be a full record of this in the [REDACTED] Court files, but my personal recollection of it is very slight. There were at least [REDACTED] which had been seized, and either the DPP or other relevant authority had conceded that they were not proceeds of crime and should be returned to [REDACTED]. That was a period when I was finding it almost impossible to obtain instructions from [REDACTED] and a date deadline passed for making application for release of [REDACTED] without such an application having been made. I sought to have the situation rectified, but despite the DPP acknowledging that [REDACTED] should have been released to [REDACTED] they were not so released. I cannot now recall the detail of the matter but I do recall that I filed at least one lengthy affidavit with the Court setting out the background of [REDACTED] involvement as an informer. I understand that [REDACTED] have still not been released to [REDACTED] despite his reagitating the matter [REDACTED].
43. As pointed out at the outset, this statement is made entirely from memory without the benefit of documents or anything else to refresh my memory. There are certainly many aspects of the [REDACTED] saga which I have not mentioned, and I am sure that the sequence in which some things happened is not reported accurately in this statement. With that



caveat and within those limits I believe that the statement truthfully sets out my recollection of those events.

44. I believe that the treatment of [REDACTED] by VicPol and by the DPP at that time was disgraceful and is a model of how not to manage police informers. Of course the situation was unusual, but in the absence of adequate protocols (including oversight from outside the police and prosecutorial systems) there is no reason to imagine it could not recur. I reiterate that the situation had the following features:

- (i) There was a complete absence of any form of documented and verifiable acknowledgement of the existence or the terms of the arrangement between [REDACTED] and the police, with the result that various of the terms were deniable and were denied. I believe this to be fundamental to any protocol for managing informers.
- (ii) The police 'managing' [REDACTED] were themselves corrupt – a possibility which, while hopefully rare, must be taken into account in the development of a management protocol.
- (iii) Those corrupt police sought to have [REDACTED] assist them in their corrupt activities, and they were in a completely dominant power-relationship with him so that he had no effective way of refusing to assist them without putting his life at immediate risk.
- (iv) Fortunately [REDACTED] had a lawyer who was aware of at least the basic elements of the informer arrangement and to whom [REDACTED] could reveal what was happening. In this aspect it is similar to the case of 'John' at paragraph 13 above. The lawyer advised the DPP of the above matters. The DPP then made a fundamental mistake in entrusting the management of the situation to a person who not only worked in the same unit as the corrupt police, but was their direct supervisor - rather than referring it to ESD or some external or independent body if one had then existed. It should not have taken hindsight to see that it was a huge and unacceptable risk to involve someone who was in an authority relationship with the corrupt police, even if there was not then any actual suspicion attaching to him. The appointee (Strawhorn) had ingratiated himself with the DPP but was himself corrupt. He was in a perfect position to protect himself against any revelations by [REDACTED] as he did.
- (v) Strawhorn then actively worked against the interests of [REDACTED] successfully undermining his credibility with the DPP (and perhaps other branches of VicPol) and making it likely that [REDACTED] would be left without any protection
- (vi) A probably-fatal outcome for [REDACTED] was avoided only as a result of ESD being informed of what was happening (independently of and unknown by either the DPP or its corrupt appointee) and taking its own steps against the corrupt police. Again, this emphasises the importance of having somebody 'in the loop' who is independent of the police. If [REDACTED] lawyer had not



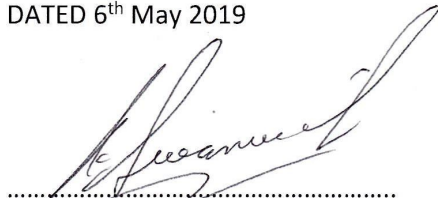


recognised the peril of [REDACTED] position and brought ESD into the picture it is likely that one of two scenarios would have arisen. First, [REDACTED] may have been killed as a result of someone deliberately revealing his status as an informer. Alternatively, [REDACTED] may have been 'cut loose' by VicPol and the informer arrangement terminated, using the excuse that he had ceased to cooperate with police and had been engaging in unlawful activities while he was an informer. In fact it is that latter strategy which seems to be the one which Strawhorn had adopted.

- (vii) When ESD brought the whole situation to a head by arresting corrupt drug-squad members, the response by VicPol (other than ESD) towards [REDACTED] was intensely hostile. There was a complete refusal to acknowledge that his efforts as an informer warranted serious consideration; rather, the focus seemed to be on punishing him for the damage which he had done to VicPol by revealing the corruption in the drug squad.
- (viii) Almost certainly as a result of the 'white-anting' of [REDACTED] by the DPP's trusted police officer Wayne Strawhorn, the DPP likewise did not honour (and in some cases denied) various commitments which had been made to [REDACTED]. They focused on getting the original charges against [REDACTED] concluded through the legal process as quickly as possible and with as little acknowledgement as possible of their role in his management as an informer. If ESD via De Santo had not been available to testify to what [REDACTED] had actually done on behalf of VicPol it is likely that [REDACTED] would have received little acknowledgement of or credit for his quite extraordinary efforts. An inference which is clearly available is that the DPP 'threw [REDACTED] to the wolves' in order to cover up the massive embarrassment which would have been caused by the revelation that it had so comprehensively been duped by a corrupt police officer.

45. Paragraph 5 of the request refers to Stephen Fontana. I have a recollection of his name as being one of the VicPol personnel with whom I had some dealings during the [REDACTED] saga, but I cannot now recall in what context. I don't recall if he was with ESD, or some other section of VicPol, or why I dealt with him. I have a faint recollection of [REDACTED] referring to him in less than flattering terms but I cannot recall the context. Perhaps if I was shown some relevant documents it might refresh my memory.

DATED 6<sup>th</sup> May 2019



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Alan Swanwick