

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

STATEMENT OF KENNETH DOUGLAS LAY AO

1. My full name is Kenneth Douglas Lay AO.
2. I make this statement in response to a request from the Royal Commission into the Management of Police Informants. This statement is produced to the Royal Commission in response to a Notice to Produce.

Questions 1-2

Detail your educational background and employment history, including progression through the ranks and roles assigned (Q1)

3. I was the Chief Commissioner of Victoria Police for just over three years, from 14 November 2011 to 31 January 2015. I replaced Simon Overland. I resigned from the role due to a family health issue. I was succeeded by the current Chief Commissioner, Graham Ashton.
4. Prior to becoming the Chief Commissioner, I was the Acting Chief Commissioner for about 5 months from 16 June 2011 to 13 November 2011.
5. The Chief Commissioner is the Chief Executive Officer of Victoria Police and is responsible for the management and control of the organisation. The role includes implementing the policing policy and priorities of the Government and providing advice and information to the Minister on the operations of the organisation and policing matters generally. The Chief Commissioner is responsible to the Minister for the general conduct, performance and operations of Victoria Police.
6. Immediately prior to being the Acting Chief Commissioner, I was a Deputy Commissioner and prior to that an Assistant Commissioner. My responsibilities were road policing/traffic and strategy and development and, for part of this time, I was responsible for Region 3, based in Broadmeadows.
7. I have described the roles that I had at Victoria Police during my 41 years of service in Annexure A to this statement.
8. I hold the following qualifications:
 - (a) Bachelor of Arts (Policing) from Monash University;
 - (b) Graduate Diploma in Public Administration from Charles Sturt University;
 - (c) Diploma of Police Studies from Monash University;



- (d) Australian & New Zealand School of Government Fellowship Program;
 - (e) Australian Institute of Company Directors Governance Program.
9. I currently hold various Board positions. I am the Chair of the Board of Directors of Ambulance Victoria, the Victorian Institute of Forensic Mental Health and the Fines Advisory Board. I am a Director of the National Heavy Vehicle Regulator. I am a member of the Medically Supervised Self Injecting Room Advisory Panel.
10. I am currently the Lieutenant Governor for the State of Victoria.

Detail your involvement or association, including the period of such involvement or association, with any investigation which had dealings in any way with Ms Gobbo (Q2)

11. I did not have any involvement with Nicola Gobbo when she was a human source. I did not know she was a source until late 2011. The roles that I had up until then meant that there was no reason for me to know about her role or for anyone to tell me about it.
12. To the best of my recollection, and after reviewing documents, I believe that I learned that Ms Gobbo had been a source when I was the Acting Chief Commissioner and concerns were raised about her role as a source.
13. Whilst I cannot be precise about when I first learned about Ms Gobbo's role, based on documents that I have reviewed, I believe that it was in the period between 24 October 2011 and 2 November 2011.
14. I can see an entry in my diary on 24 October 2011 recording a discussion that I had with Assistant Commissioner Graham Ashton about a "possible disclosure by Petra member" and that Victoria Police's in-house solicitor, Fin McRae, was to provide advice. I have also been shown a handwritten note that I have been told by my solicitors was made by Acting Deputy Commissioner Tim Cartwright which seems to record him briefing me that same day, 24 October 2011, about an allegation that Ms Gobbo had had a sexual relationship with Assistant Commissioner Jeff Pope.¹ Whilst I do not specifically recall the discussions with AC Ashton and the discussions with A/DC Cartwright, it appears that I was briefed by both of them on 24 October 2011 about the allegation. If that is correct, then they may have informed me as part of the briefings that Ms Gobbo had been a human source. I do have a recollection of being briefed about the allegation about AC Pope but I cannot now recall anything about the briefing or whether I was told, in that context, that Ms Gobbo had been a source. I also have a faint recollection of speaking to AC Pope about the allegation.
15. The first reference in my diary to Ms Gobbo is on 2 November 2011. She is referred to as "Witness F". The diary entry records a conversation with A/DC Cartwright. I do not recall this

¹ VPL.0100.0013.0053 at 0101.

conversation. However, in preparing this statement, I have been informed by my solicitors that it may have been on this date that A/DC Cartwright became aware of a written advice by barrister Gerard Maguire which had expressed concerns about Ms Gobbo's role as a human source. I have been shown a copy of the advice which contains the handwritten annotation "By hand 2/11/11" made by A/DC Cartwright. Whilst I do not recall my conversation with A/DC Cartwright on 2 November 2011, if he became aware of Mr Maguire's advice that day, then my diary note is likely to be a record of him briefing me on the concerns raised by Mr Maguire.

16. Therefore, based on the above, it seems that I became aware that Ms Gobbo had been a human source in the period from 24 October to 2 November 2011. I certainly knew of her role by 18 November 2011 because there is an entry in my diary on that date recording a discussion about utilising former Chief Commissioner Neil Comrie to conduct a review.²
17. Prior to setting out the engagement of Mr Comrie, for completeness, I note that there are records in my diary between 20 May and 2 June 2011, recording meetings about the Petra, Briars and Driver investigations. I was the Deputy Commissioner – Strategy and Planning at that time. There would have been no reason for me to attend those meetings in that role. However, I recall that when the Deputy Commissioner for Crime, Sir Ken Jones, left Victoria Police on about 6 May 2011, I continued in my role and also assisted with his role for a short period until he was replaced. Therefore, I expect that I was invited to the meetings for that reason. I do not have any recollection of the meetings. I have been shown a folder of documents labelled "Petra Taskforce Briefing to DC Ken Lay".³ The cover sheet records that the folder was provided to me on 24 May 2011. I do not have any recollection of receiving the folder or reading its contents. I have reviewed the contents and the folder does not contain any notes or other documents indicating that I received it. I am informed by my solicitors that the handwriting throughout the folder belongs to A/DC Cartwright. Therefore, it seems that the folder of briefing documents was given to A/DC Cartwright rather than me or it was given to me and I passed it onto A/DC Cartwright because he was to be briefed on the Petra Taskforce. If he had or was soon to be promoted to the role of Acting Deputy Commissioner for Crime at this time then that would explain why the briefing was re-directed to him. I can also see that the month after I became the Acting Chief Commissioner, I was invited to a meeting about Driver. See print-out of calendar meeting stuck in my diary on 8 July 2011.⁴ I do not know if that meeting occurred. It was not my practise to always remove calendar print-outs from my diary when meetings were not to proceed. I have no recollection of the meeting.
18. It appears from the documents that I have been shown that it was A/DC Cartwright who was overseeing Driver.⁵ I can also see from a review of documents in relation to Ms Gobbo's allegation that she had had a sexual relationship with a member of the Driver Steering

² VPL0005.0237.0029.

³ VPL.0100.0013.0053 at 0162.

⁴ VPL.0005.0256.0009 at 0015.

⁵ VPL.0100.0013.0053; VPL.0002.0002.0031 at 0065

Committee, AC Pope, that that issue was also managed by A/DC Cartwright together with AC Ashton.⁶ I have been shown by my solicitors legal advice that was obtained by Mr McRae from the VGSO.⁷ To the best of my recollection and based on a review of documents, I do not believe that I received the legal advice. As set out earlier, it appears that A/DC Cartwright informed me about the sexual relationship allegation on 24 October 2011 and I can then see a written briefing from him dated 27 November 2011⁸ in which he stated that he had discussed the issue with the OPI and obtained legal advice and determined that there was no obligation to act on the allegations. Whilst I do not recall receiving the briefing, I can see that it is addressed to my chief of staff. Therefore, it appears that I was briefed about the allegation on 24 October 2011 and then briefed on its resolution around 27 November 2011.

19. Moving on to the engagement of Mr Comrie, after I was briefed as the Acting Chief Commissioner on the concerns about Ms Gobbo's role as a human source, I met with Mr Comrie to brief him on the review that Victoria Police wished him to undertake. I can see from my emails⁹ and diary notes¹⁰ that I meet him in late November and early to mid-December 2011. I can see from my emails that around this same time, on 22 November 2011, I was also briefed by A/DC Cartwright that Ms Gobbo had been withdrawn as a witness against Paul Dale due to safety issues.¹¹
20. I can see from emails shown to me that A/DC Cartwright, AC Pope and Mr McRae undertook the procurement work for Mr Comrie's review.¹² It appears that Mr Comrie and Superintendent Stephen Gleeson, who assisted Mr Comrie, were involved in formulating an appropriate scope of the works.¹³ Once the terms of the engagement were resolved, they would have been provided to me for approval.
21. It appears from my diary that on 6 June 2012, I was briefed by AC Ashton and Mr McRae about concerns identified in relation to Mr Comrie's review.¹⁴ I can also see from my diary that on 19 June 2012, AC Pope briefed me about the possibility of some "significant issues" identified through Mr Comrie's review.¹⁵ I can see from emails that in a meeting with Superintendent Gleeson on 21 June 2012, I asked him about the issues and we discussed them.¹⁶ For completeness, I also refer to an entry in my diary around this same time, on 6 June 2012,

⁶ VPL.0002.0002.0035; VPL.0002.0002.0059.

⁷ VPL.0002.0002.0063.

⁸ VPL.0002.0002.0059.

⁹ VPL.0100.0001.0493 at 0531; VPL.0100.0001.0493 at 0523; VPL.0100.0001.0493 at 0525.

¹⁰ VPL.0005.0237.0001 at 0013-14.

¹¹ VPL.6022.0061.5716; VPL.6022.0061.5717.

¹² eg VPL.0100.0001.0493 at 0511; 0512; 0522; 0523; 0525.

¹³ VPL.6019.0013.6033; VPL.6019.0013.6034.

¹⁴ VPL.0005.0237.0001 at 0017.

¹⁵ VPL.0005.0237.0001 at 0020.

¹⁶ VPL.0100.0001.0493.

referring to a conversation that I had with AC Ashton and Mr McRae which appears to have been about Mr Comrie's review. I cannot now recall the detail of these discussions.

22. On 12 July 2012, AC Pope provided me with Superintendent Gleeson's 22 June 2016 report which outlined the issues of concern relating to the manner in which Ms Gobbo had been utilised as a source and the resultant impacts.¹⁷
23. My diary records that on 17 July 2012, I then met with AC Pope to discuss the report and next steps which was to brief the OPI as soon as possible.¹⁸
24. On Friday, 20 July 2012, I met with the Acting Director of the OPI, Mr Ron Bonighton to brief him on the concerns raised by Superintendent Gleeson.¹⁹
25. On 25 July 2012, I notified Mr Bonighton of the OPI in writing about the matter and enclosed a copy of Superintendent Gleeson's report.²⁰
26. I have been shown a letter dated around this same time, 24 July 2012, addressed to me from the Victorian Ombudsman, George Brouwer enclosing a copy of a letter from Ms Gobbo to DC Kieran Walsh about her role as witness against Paul Dale.²¹ I do not recall receiving this letter. However, I can see that I sent a response to Mr Brouwer's letter on 8 August 2012 which explained that DC Walsh had received Ms Gobbo's letter and a response had been sent to her and that AC Ashton would be attending Mr Brouwer's office to provide a further briefing.²² It appears from a handwritten notation on the letter from Mr Brouwer that VGSO may have been engaged in relation to this matter and prepared my response.²³ It also appears from documents that I have reviewed that VGSO and Victoria Police's legal department had earlier advised in relation to the letter that DC Walsh had received from Ms Gobbo and the response that was sent to her.
27. I have been shown documents dated around this same time that show that Mr Bouwer was also corresponding with Mr McRae about an investigation into Victoria Police's settlement of Ms Gobbo's civil claim.²⁴ I do not recall having any involvement in the civil claim which I understand was issued and settled well before I became the Acting Chief Commissioner. I have been shown an email from Peter Lardner dated 24 June 2010 which states, among other things, that the defence for the "Gobbo writ" was to be filed the following day.²⁵ A notation on this email indicates that I was blind copied to it. I have no recollection of receiving the email. I expect that I was

¹⁷ VPL.0100.0010.4006 at 4008.

¹⁸ VPL.0005.0237.0001 at 0021-22.

¹⁹ VPL.0005.0237.0001 at 0022.

²⁰ VPL.0100.0010.4006 at 4007.

²¹ VPL.0005.0010.2677.

²² VPL.0005.0010.2676.

²³ VPL.0005.0010.2677 .

²⁴ VPL.0005.0018.0665 and attachments; VPL.0005.0018.0675.

²⁵ VPL.0005.0010.2285.

copied to it only because of the potential that, in my position as Deputy Commissioner, I might receive media queries about the matter. My role at this time, Deputy Commissioner (Road Policing), involved me talking to the media a lot. I expect that Victoria Police's legal department managed the response to Mr Brouwer's investigation about the civil settlement. Whilst I do not recall it, I expect that the Legal Department would have briefed me about the investigation. I can see a letter from Mr Brouwer addressed to me dated 27 August 2012 in which a draft of his report is enclosed for response.²⁶ I expect that I would have provided that to the Legal Department and that a response would have been prepared and sent.

28. On 6 August 2012, I received a letter from Mr Comrie enclosing his report about the use of Ms Gobbo as a source.²⁷ Mr Comrie's letter stated that his review indicated that the utilisation and management of Ms Gobbo was problematic for a number of reasons set out in the letter and report. He stated that there were 27 recommendations.
29. The same day, on 6 August 2012, I provided the report to Mr Bonighton of the OPI.²⁸ I also forwarded the letter and report to DC Ashton with a request that he review the recommendations and advise on how they would be implemented.²⁹
30. I can see an entry in my diary on 13 August 2012 that there was a briefing involving DC Ashton and AC Pope about "Briars/Dale brief". I have also been informed by my solicitors that there are diary notes suggesting that on 17 September 2012, I attended a meeting with AC Pope, AC Ashton, Paul Sheridan, Liz Cheligoy and Doug Fryer at which there was discussion about the Comrie Review. I do not now recall any detail of these discussions. However, as Ms Cheligoy worked in Victoria Police's Human Resources Department, I expect that this meeting concerned the resourcing of the work to be undertaken following Mr Comrie's report.
31. I appointed DC Cartwright to oversee the implementation of Mr Comrie's recommendations and the completion of Operation Loricated.³⁰ I believe that Operation Loricated reported to a Steering Committee. From the second half of 2012 onwards, I would have received high-level briefings at appropriate intervals on the implementation of Mr Comrie's recommendations. I would have also received some briefings about the closure of the Source Development Unit. I also recall that I had contact with Greg Davies of the Police Association about the closure.³¹
32. The OPI was replaced by IBAC. I have been shown a letter from Stephen O'Bryan SC of IBAC to Acting Chief Commissioner Cartwright dated 3 April 2014 about a briefing provided to him by AC Stephen Fontana, AC Stephen Leane and Mr McRae about Ms Gobbo.³² The letter was

²⁶ VPL.0005.0028.0268.

²⁷ VPL.0100.0001.0606 at 0607.

²⁸ VPL.0005.0258.0001.

²⁹ VPL.0100.0001.0606.

³⁰ VPL.0005.0018.0101.

³¹ VPL.0100.0102.0001 at 0039.

³² VPL.0005.0018.0101 at 0117.

received by Victoria Police when I was on leave. On 7 April 2014, I returned from leave and received a briefing from DC Cartwright about, amongst other things, the letter received from Mr O'Bryan.

33. On 10 April 2014, I met with Mr O'Bryan to discuss the issues relating to Ms Gobbo and I sent a response to his letter which outlined steps taken by Victoria Police in relation to reviewing her role as a human source. The letter also formally requested that IBAC conduct a post implementation review of the recommendations made by Mr Comrie.³³ I expect that one of the people who attended the earlier briefing with Mr O'Bryan and who was across all of the detail contained in the response and attachments would have prepared it for me.
34. I received a response from Mr O'Bryan dated 15 April 2014.³⁴ He confirmed, amongst other things, that he had notified the Minister for Police and Emergency Services, the Attorney-General and the Chair of the IBAC Parliamentary Committee of the steps being taken in relation to the matter. I sent a response dated 14 May 2014 enclosing detailed material about Victoria Police's review of Ms Gobbo's use as a source and its holdings.³⁵ The material was compiled by Superintendents Lardner and Gleeson. Mr O'Bryan responded by letter dated 21 May 2014 stating that the Hon. Murray Kellam AO QC would be handling the matter.³⁶
35. On 13 June 2014, I received an email from Superintendent Gleeson informing me that he had attended IBAC and had spoken to each of Mr Kellam and Andrew Kirkham who was assisting.³⁷ Superintendent Gleeson informed me that he had undertaken to make himself available to provide ongoing assistance with their work.
36. Around this time, I was also briefed about steps taken to involve the Department of Human Sources in assessing the safety of Ms Gobbo's child.³⁸
37. I have been shown a letter addressed to me from Ms Gobbo dated 30 October 2014.³⁹ Ms Gobbo explains why she had refused entry into the witness protection program and indicated her intention to seek a reward and sue Victoria Police. I can see a handwritten note on the letter stating that it was received by Mr McRae. I have a faint recollection of the letter. I expect that I was briefed about the nature of the response to be provided. It appears from documents shown to me that AC Tracy Linford responded to the letter.⁴⁰

³³ VPL.0005.0018.0101.

³⁴ VPL.0015.0004.0001.

³⁵ VPL.0100.0173.0300.

³⁶ VPL.0005.0015.0002.

³⁷ VPL.6022.0042.0204.

³⁸ GLA.0005.0003.0304.

³⁹ VPL.0002.0001.1520.

⁴⁰ VPL.6019.0032.1179; 1180; 1191.

38. In December 2014, I commenced a period of leave and on 31 January 2015, I resigned from Victoria Police due to a family health issue. At the time of my resignation, Mr Kellam had not reported on his investigation.

How I learned, or was given reason to believe, Ms Gobbo was providing information or assistance to Victoria Police (Q3)

39. I refer to my response to question 2 above.

Provide details of any other member of Victoria Police or other organisation who you believe was aware, prior to the end of 2012, that Ms Gobbo was providing information or assistance to Victoria Police (Q4)

40. I refer to those people identified in my response to question 2 above.

Provide details of person(s) you believe were involved in the authorisation, and continued authorisation, of the use of Ms Gobbo as a human source (Q5)

41. I do not know.

Detail all personal contact you have had with Ms Gobbo (Q6)

42. I did not have any personal contact with Ms Gobbo.

Provide details of information and assistance received by Victoria Police (Q7 and Q8)

43. Save as set out in response to question 2 above, I have no knowledge of any information or assistance received by Victoria Police where I knew or suspected that the information or assistance was provided by Ms Gobbo.

Provide details of your awareness about concerns raised (Q9-Q11)

44. I refer to my response to question 2 above.

Provide details of any other human source who, to your knowledge, has provided information or assistance to Victoria Police who were subject to legal obligations of confidentiality or privilege (Q12)

45. I am not aware of any other such human sources.

Detail any training, including any retraining, you have received in relation to:

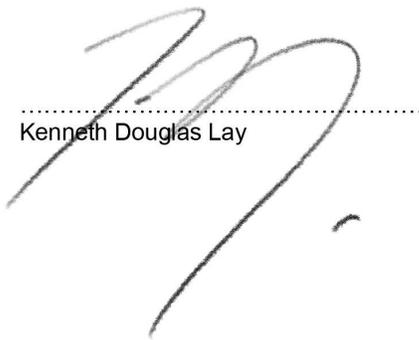
- (a) your obligation of disclosure to accused persons, prosecution agencies and the courts;
- (b) the right of an accused person to silence;
- (c) the right of an accused person to a legal practitioner;
- (d) legal professional privilege;
- (e) public interest immunity; and
- (f) professional and ethical decision making (Q13)

46. Whilst I do not recall given the passage of time, I expect that I would have received formal training about, at least, some of these topics at the Police Academy, Detective Training School and in the Prosecutors Course. They are also matters that are learnt on the job. The topic at (f) would have also been covered in a wide range of training programs provided at Victoria Police.

Are there other matters relevant to the Commission's terms of reference about which you are able to provide assistance to the Commission (Q14)

47. I have no further information to provide.

Dated: 15 December 2019

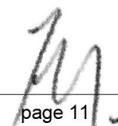


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Kenneth Douglas Lay

Annexure A

1. I set out below my work history at Victoria Police.
2. From 14 November 2011 to 31 January 2015, I was the Chief Commissioner of Victoria Police. The role of Chief Commissioner is described in this statement.
3. From 16 June 2011 to 13 November 2011, I was the Acting Chief Commissioner of Victoria Police. I was appointed to this position after Simon Overland departed as the Chief Commissioner and while his replacement was being found.
4. From January to June 2011, I was the Deputy Commissioner (Strategy and Planning). This was a new role created to deliver on the new government's law and order agenda. My role was to lead and manage the delivery of the government's investment into law and order, including:
 - (a) the recruitment and training of an addition 1,700 new police and newly created Protective Security Officers;
 - (b) the reform of Victoria Police's Service Delivery Model;
 - (c) managing enterprise bargaining negotiations;
 - (d) the development and delivery of a cultural change program.
5. From March 2009 to 12 October 2010, I was the Deputy Commissioner (Road Policing).
6. From November 2007 to March 2009, I was the Assistant Commissioner (Traffic and Transit Department)
7. The nature of my roles as Assistant Commissioner and Deputy Commissioner in road policing/traffic were broadly the same. The role involved:
 - (a) the management of over 430 people across four divisions: the Road Safety Strategic Services Division, Traffic Camera Office, Traffic Support Division, and the Transit Safety Division;
 - (b) the management of a budget of \$29.5 million;
 - (c) introducing enforcement initiatives such as the Transit Safety Strategy, the Roads Policing Strategy and the implementation of the government's arrive alive! 2008-2017 road safety strategy and associated action plans.
8. From November 2005 to November 2007, I was the Assistant Commissioner for Region 3. Region 3 is the North West part of Victoria. I was based at the Broadmeadows Police Station. The role involved:
 - (a) responsibility for providing policing services for 955,862 community members across 65,031 square kilometres;
 - (b) the management of 1,770 people across five divisions, through seven Superintendents with divisional management and portfolio responsibilities;

- (c) the management of 83 police stations, and 311 work units, including a regional traffic unit, 24 criminal and specialist investigation teams, ten traffic management units, four regional response units and two country communications sites at Bendigo and Mildura;
 - (d) the management of a budget of \$160 million;
 - (e) contribution to strategic organisational issues through membership of Corporate Committee.
9. From January to November 2005, I was a Superintendent in Division 5 of Region 3 which was the Moreland, Hume and Moonee Valley areas. This role involved:
- (a) responsibility for providing policing services for 393,203 community members;
 - (b) the management of over 530 people across the three Police Service Areas of Hume, Moonee Valley and Moreland;
 - (c) the management of eight 24 hour police stations, five criminal and specialist investigation teams, a divisional intelligence unit, and a traffic management unit;
 - (d) developing and maintaining productive relationships with local councils and local faith communities, which was especially important in this culturally and linguistically diverse area;
 - (e) the management of the amalgamation of four Criminal Investigation Units into two Divisional Units.
10. From October 2003 to January 2005, I was the Chief of Staff to Chief Commissioner Christine Nixon.
11. From October 2001 to October 2003, I was a Superintendent in Division 5 of Region 4 which was the Wodonga and Wangaratta areas.
12. From November 1999 to October 2001, I was an Inspector in the Bass Coast District.
13. From 1993 to 1999, I was an Inspector in the Morwell District.
14. From 1992 to 1993, I was an Inspector in the Personnel Department.
15. Between graduating from the Police Academy in 1974 and 1992, I held ranks from Constable to Senior Sergeant and was located in various different areas of Victoria.
16. I received the following awards:
- (a) Australia Police Medal;
 - (b) National Police Service Medal;
 - (c) National Medal and Bar;
 - (d) Fellow of the Australian Institute of Company Directors (FAICD);



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- (e) Fellow of the Institute of Public Administrators Australia (Vic);
 - (f) Fellow of the Gippsland Community Leadership Program.
17. In 2017, I was appointed an Officer of the Order of Australia.