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Response to question raised by Superintendent Gleeson regarding Human Source 3838 by Superintendent Biggin

Human source 3838 (hereafter referred to as 3838) created an opportunity for Victoria Police never before encountered, and in all probability never to be encountered again.

I took over the then Covert Support Division in August 2005, after my rotation from the Major Drug Investigation Division (MDID) of the Crime Department. That Division is now called the Drug Task Force and the Clandestine Laboratory Squad after the introduction of the Major Crime Management Model. I took over the Covert Support Division from Superintendent Peter Blick who retired in mid 2005. The Division initially had four work Units, the Special Projects Unit, The Undercover Unit, the State Surveillance Unit and the Technical Support Unit, each led by a Detective Inspector.

I ran this division until February 2010 when I moved to the Surveillance Services Division. I was replaced by Superintendent Paul Sheridan. The Covert Services Division is now made up of the Special Projects Unit, the Undercover Unit and the Source Development Unit, again each headed by a Detective Inspector.

In 2005 the Source Development Unit was in its early stages of development. after a review conducted of Human Source management by me and Sandy White-O Sandy White whilst we were a part of the [REDACTED] Sandy and I travelled to South Australia and investigated their human source model. This was found to be a sound robust model that managed the risk associated with human source management.

This review was as a result of a number of corruption issues that arose from interaction with human sources and the disbandment of the former Drug Squad and the jailing of a number of its staff.

Sandy White-O [REDACTED] and Detective Senior Sergeant (now Inspector) Glenn Owen (Human Source Management Unit) also travelled to Canada and the United States to undertake training and examined their human source management models.

Victoria Police's model is based on the mix of the three models in place in those locations.

In 2005 the Source Development Unit was a part of the State Intelligence Division (SID) and they reported to now retired Superintendent Ian Thomas. SID also had control over the Human Source Management Unit. I quickly formed the view that it was a conflict for both Units to report through the same reporting lines. Ian Thomas was in a position of essentially supervising himself through his own Policy.

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My rationale was as follows, the Human Source Management Unit are the “owners” of Human Source Policy and practice. The Source Development Unit are the handlers of human sources, that said, then the Human Source Management Unit are the “gate keepers” of good practice, policy and policy adherence. They are superior to the Source Development Unit from a hierarchal structure.

A number of meetings were held in order the resolve the conflict of interest issues. Another issue was that we had a high risk unit in the Source Development Unit and no Inspector with direct responsibility.

In due course, then Commander Dannye Moloney made a functional change and the Source Development Unit moved to the Covert Support Division. There was still no inspector allocated, so now retired Inspector Rob Hardie of the Undercover Unit took over both roles, as many of the covert functions are similar. I might say that Inspector Hardie managed the transition well. Inspector Hardie was later replaced by Inspector Andrew Glow, Andrew likewise did a good job, but did not have the wealth of background experience in covert policing to allow him to manage to the same level.

Andrew did not have the confidence of decision making that Rob possessed nor the covert operational credibility.

The Source Development Unit had two [redacted] initially s 26 (1) [redacted] and s 26 (1) [redacted] who was later replaced by s 26 (1) [redacted]. The Unit has the highest level of probity check of any within Victoria Police. I have worked over the years with all three, in very sensitive areas of the Force; they are subject matter experts on covert policing and indeed human source management. Their expertise is recognised Australia and Australasia wide.

Questions

A1. As discussed above, when I took over the Division it was obvious the functional management was too broad. The difficulty was in obtaining positions to enable proper management practices. This was finally attained in late 2009 after issues arose at the State Surveillance Unit in 2008 relating to information management and security.

The current model now allows the Superintendent to actively oversight the Inspector and indeed intrusively supervise work units. This is a better operating model in my opinion.

A2. The risk assessment process has changed and evolved over the years. The risk process was re-designed by the Human Source Management Unit based on a number of overseas models and suffice to say the model has improved over time. Documentation has improved since the early days. All contact with the human source was tape recorded in any event, and on a number of occasions the risk assessment process was also tape recorded.

The change from human source to witness became an issue; it is my strong view that once a human source becomes a cooperating witness then their role as a human source

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should be terminated. This was unable to be achieved with this human source as the TF Petra Steering Committee wanted the Source Development Unit to continue to manage the source that was difficult in the extreme. There was also a view that investigators would have struggled with a witness as difficult as this person and still managed the investigation – I do not support this view.

In hindsight a full risk assessment should have been done at the change of status.

A3. There were a number of discussions about having the sources value discussed with a member of the legal professional, given the nature of this source, the view that the source would not cooperate if the relationship was known to peers in the legal professions this was unable to be achieved. As a legal practitioner this human source was aware of their roles and responsibilities, the duty of care issues, and legal and professional privilege issues. 3838 was warned on numerous occasions not to mix the roles and responsibilities. This guidance was mostly ignored by the human source.

The human source was registered prior to my involvement in this matter, the thought process at the time, as I have been briefed, is the source was dealing with a number of different police members, disclosing a number of criminal matters that came to the sources notice, so a decision was taken to register the human source to protect the individual, the community and Victoria Police.

I have no real confidence that a member of the bar could maintain a working relationship if they had been briefed that one of their peers was acting as a human source. I am aware of many breaches of personal information security by members of the bar over the year. Indeed I am aware of 3838 breaching information security. Also a number of practice issues would confront them.

A4. The psychologist employed by Victoria Police to assist the Source Development Unit and indeed the source was an abject failure. It was a good idea at the time but not taken in the right context by 3838. This practice was undertaken by the PII [redacted] with their sources – I am briefed that they too had mixed results. The source saw the psychologist as a lesser light and would not and did not maintain any form of relationship with them. 3838 attempted to bully the psychologist in my view.

The source was also having a number of personal issues; this was an attempt by Victoria Police to help the source through contact with the psychologist. Victoria Police permanently employed staff do not possess the skill nor ability to deal with a strong personality like that of this source. The Source Development Unit fully considered the points that Psycho did raise. They went into daily interaction with the source but were not fully documented due to confidentiality issues.

Comment [v1]: Not sure what this means Is it ref to the psychologist?

A5. The process for managing handler workload was strictly the role for the human source controllers and their Inspector. Depending on the human source and the level of interaction this set the course for managing the work load.

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Furthermore the Inspector was required to actively manage the Unit and as the Superintendent it was my practice to speak to the members at least weekly on operational issues, including workload.

I feel I was across issues of handler workload. Yes it was heavy, but then again so are many roles in this organisation.

A6. A number of issues were parked for fear of identifying the human source. Depending on the issue, some can now be reported, others will never be able to be reported, as they have been disclosed by persons who know the human source and know what information they have told the source. This is standard practice in human source management and in my view a sound practice.

These disclosure decisions should be finally made upon the source being deemed as inactive.

A7. Issues of corruption are always reported. The process in my time was to ring the Ethical Standards Department and verbally report them to a Superintendent, on the more serious issues an information report was forwarded for attention. There is a second issue that relates to “what can now be done about it” – sometimes the matter had arisen had been reported and no more can be done.

A8. AOR’s were used for 3838 & indeed were mostly recorded. There were two systems in use initially, the initial Z drive which contained the data and later the Interpose system. On a number of occasions the AOR’s were reinforced with the source and recorded.

A9 As discussed, during the management of this human source, two systems were used, the initial manual system called the Z drive used by the Source Development Unit, which necessitated physically conveying source data to the Human Source Management Unit on a disc or other electronic means. This resulted in numerous occasions in the data being ‘lost’ or misplaced, there is no suggestion the data was misused but due to its sheer volume was not properly added by the Human Source Management Unit to the main file, resulting in numerous audits being conducted the rectify the data integrity issues.

This has led to data not matching time frames.

Interpose was introduced and then the dedicated human source module later introduced. This allowed – generally speaking – a snap shot of where the human source data was, and what was required at that time. Generally speaking this module assists greatly from a management perspective.

The other issue related to the work load of the human source controllers. This was a “log jam” in that they had to verify the information and data before the records could be updated.

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A10. Some handlers were better than others in relation to submission of paperwork. For example this human source did not like Wolf-O [redacted] nor Richards-O [redacted] and so their interaction with the source was not as time consuming as others. Handler performance is managed by the Controllers in consultation with the Inspector and the Superintendent. This human source was highly manipulative and the risk had to be managed against the value.

Also this human source gravitated towards handlers that the source liked, this was carefully managed to ensure that handler contact and welfare were managed. I think we did this reasonably well. At times we needed to put a handler with the source that 3838 did not like, [redacted] when dealing with the source.

A11. The human source was told on many occasions not to involve themselves in matters where they were not required. Being highly intelligent and with an attitude of being superior to others, this was nearly impossible to manage. The source did become involved in matters after being discharged from hospital. This was after the source was advised they should not interact with others, but chose to ignore this advice. The source had difficulty distinguishing between friend and target, as many of the targets were indeed friendly with the source. The source also socialised with a number of targets, and was continually warned not to do that.

A12. The human source was always demanding. After the source became a cooperating witness this intensified as there were two sets of priority in play. This allowed 3838 to at times manage the situation. As previously stated I strongly hold the view that the source should have been deregistered and made a cooperating witness, with the investigators taking total responsibility for witness interaction. There were also times when the priorities of the investigators were contrary to the good order and management of the sources welfare.

This human source is an extremely "needy" individual. I was becoming more and more concerned that the source saw us as a friend and we needed to keep our relationship on a professional footing. For example she saw Sandy White-O [redacted] as a father figure. This was in part why I attempted to have a professional (psychologist) involved in her relationship with Victoria Police. As previously discussed this did not go well as the source saw her standing in the professional world as being on a higher level than others.

A13. The Source Contact reports are managed by the Controllers and the Inspector. The incident in relation to the brief critique occurred after the source had been advised not to do this (this is a reoccurring trend). The source went ahead and did it anyway. The source had a criminal practice that related to criminal law and specialised in relation to bail applications, where the source had a reputation of being very successful. It is my recollection the source did this to ensure that the brief did not contain material that potentially compromised the source.

The issue of whether this is proper or not is difficult to answer. The source was manipulative, did not take directions nor instructions well, and at times did things that

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were contrary to instruction. As such at times it was a matter of attempting to look after source welfare after events that the source had been advised not to do had indeed happened.

I might add this is not foreign to this source, they all at times take selective guidance from investigators, including sometimes the commission of criminal offences.

A14. It is my opinion the only secure way to handle any source relationship is to PII [REDACTED] PII [REDACTED]. The handlers at the Source Development Unit have been through the highest level of probity check that is conducted by Victoria Police. There is great trust in them, but it is well placed trust. Policies are very robust and supervision is intrusive. It was the practice of the controllers and Inspector Hardie to PII [REDACTED]

Records should always be reconciled by the Controllers, albeit it is a lot of work.

A15. Around Australia it is my view that Victoria Police do it as well as anybody else. [REDACTED] Police have no Source Unit. [REDACTED] Police have a robust model on which we partially have modelled ours. [REDACTED] Police and [REDACTED] Police have modelled theirs on our model. I am unaware of the [REDACTED] Police and the [REDACTED] Police models, given their size I doubt if they have a dedicated Unit. The [REDACTED] had a source unit, from an outsiders perspective this appeared to work well, but due to budget issues they did away with it.

A16. It is my opinion that my concerns about the move from human source to witness were not given enough weight. I can recall a conversation with the then Assistant Commissioner Overland where we discussed this source and the fact the source was a barrister. I discussed that we were in risky territory and his response was that maybe I was being too conservative and maybe we need to be more aggressive in this regard and what we could achieve with the sources assistance.

As the TF Petra investigators began interaction with 3838 there were clear conflict of interest issues. I hold the view that this source could have been transitioned from a source to a witness in a way that protected the source and Victoria Police. By this I mean they could have become a non voluntary witness, if the investigators had accepted guidance that I gave to them. They chose to ignore this advice and we now have an unmanageable situation.

A17. There will always be a difference of opinions between investigators and source handlers. Their aims at times are in two different directions. Prior to my conclusion in this area the source was attempting to manipulate the investigators, by suggesting strategies and avenues of investigation that they could follow. The investigators were very focused on an outcome and did not appear to understand the risk in what they were attempting to achieve.

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Having said that, as a tool for investigators, handlers and their managers are not in possession of all the information and material that investigators have at their disposal, and indeed make their investigation decisions about.

A18. It has always been my position that the Human Source Management Unit have a management role over all human sources, that is they should oversight all human source relationships. There are a number of distinct roles, the Central Source Registrar is pivotal to the good management and policy directions of human source management. The Human Source Management Unit by their very name should take an active role in overseeing and assisting in human source management.

It is acknowledged that the Source Development Unit are professionals in their craft, that is not to say they are not without fault, and they too should be the subject of the utmost scrutiny.

Conclusion

As previously stated 3838 created significant opportunities for Victoria Police – some of the results speak for themselves. The question of whether Victoria Police and indeed the Source Development Unit became “blinded” to the risks is one for discussion. It is my view that the Unit managed the source well, in very difficult times. They could also have done some things better.

When a source transitions to a cooperating witness is an issue that requires addressing. It is my strong view that once a source becomes a cooperating witness, their role as a human source should conclude. This did not happen on this occasion and two competing sets of priorities took over, which 3838 exploited then and continues to exploit.

Could we have done things better, of course, and that is the strength of our model, we can always learn. 3838 has become a case study for the Human Source Management Course. 3838 was taken on when the Source Development Unit were learning their craft, they too learnt many lessons from this relationship and have evolved their procedures since as a result of this interaction.

As the Local Source Registrar could I have done my role better, of course, but as I have previously stated I believed every attempt was made to manage 3838’s welfare and our responsibilities in a balanced evidence based way. My role became impossible when 3838 became a cooperating witness.

Now that the Source Development Unit has a dedicated Inspector, I believe there is closely management scrutiny than before, so the current model builds on our previous robust (with some faults) model.

The other issue that has been unclear to me was the motive for 3838 to become a human source. Many times it was stated because the Mokbel family were standing over the source and refusing to pay their legal fees. It is my opinion this is partially true but I believe (without any evidence to support my assertion) ~~is~~ the source was involved in

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passing information between the fighting gangland identities which ended up in the death of an individual or individuals. 3838 continues to this day to associate with very high level criminal figures in this State, this is a very difficult circumstance for Victoria ~~police~~ Police and to a large degree beyond our control.

A. M. Biggin
Superintendent
09 May 2012

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