

Miss N. Gobbo

Port Melbourne 3207

PRIVATE AND CONFIDENTIAL

The Deputy Commissioner
Mr. Kieran Walshe, APM
Victoria Police Centre
637 Flinders Street
MELBOURNE VIC 3005

21 February 2012

Dear Sir,

Re: Witness Protection Program and Conduct by Victoria Police

I refer to your letter and enclosure dated 9 January 2012 (**your correspondence**).

Firstly, given that I have previously been informed by senior operational members of Victoria Police that if your organisation becomes aware of a specific, credible threat to my safety, that I would be advised immediately. Accordingly, I conclude that the purpose of your correspondence is to attempt to do no more than set out some of the discussions (between myself and the Witness Security Unit (**Witsec**). Those discussions occurred in the context of meetings held after Victoria Police informed me that I was a Crown witness (notwithstanding my Terms of Settlement) in the prosecution of Paul Dale for offences arising from evidence given by him to the Australian Crime Commission (**ACC**).

It is my understanding that immediately after charging Paul Dale with the ACC offences on 15 February 2011, members of Victoria Police from Taskforce Driver attempted to visit me at home to inform me that I was a prosecution witness. Once again, there was no attempt to put in place any protective measures for my safety. Although my mother had died on 14 February 2011, I reluctantly agreed to meet members from Taskforce Driver a few days later. They advised me that a decision had been made by Victoria Police to give the Commonwealth DPP a copy of both my statement against Dale and the covert recording to enable Dale to be prosecuted for offences arising from his evidence before the ACC and that I was being relied upon as a prosecution witness.

It is a consequence of that determination by your organisation that I subsequently met with investigators and an officer from Witsec in relation to possible entry into the Witness Protection Program; your members made clear to me that serious concerns were held for my safety because of me being a witness. Perhaps not surprisingly, no agreement could be reached with respect to witness protection due to the (same) inflexible and myopic approach from Witsec. Eight months passed during which I suffered great anxiety, stress and further illness (necessitating hospitalisation) which was caused by uncertainty and fear and the same inability I had faced in 2009-10 in terms of being able to get a definitive response from anyone within your organisation as to my safety and adequate measures to protect me as a

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witness. Ultimately, a decision was made after Dale's committal proceedings had commenced, not to call me to give evidence because of serious concerns for my safety.

The conduct of your organisation once again leaves much to be desired. Absent the most basic of measures for my safety or welfare, the force's hierarchy decided that I would be a witness, then told me that I would be giving evidence and that I should enter Witsec on the same basis that was rejected by me in 2010. It's not surprising that I became seriously unwell from being subjected to months of uncertainty and unnecessary fear and stress.

I note that a (recent) risk assessment by Victoria Police assessed the risk of harm to me as being "extreme". That assessment is current notwithstanding your indication that the present view of Victoria Police is that I am no longer considered to be a witness in relation to Paul Dale. I further note that your advice is not specific as to which matter/matters that view is held.

Your correspondence contains a number of incorrect assertions and it would appear that those who are tasked with advising you (in respect of my personal circumstances and the history of this matter) have not fully briefed you as to the current or indeed accurate position.

I propose to address some of the incorrect assertions & assumptions in your correspondence, however, in order to properly understand my circumstances and indeed, the position moving forward, some reference to the history of this matter will give the overall situation a proper context.

Background & Police contact with me

Without exhaustively re- stating the entire history of my dealings with your organisation, it should be noted that when I was approached and asked to make a statement against Paul Dale (specifically in respect of the murders of Christine & Terrence Hodson) and to give evidence for the prosecution, it was made clear that I did not want to find myself any "worse off" as a result of assisting Victoria Police.

As an aside and for completeness, during 2008 I enjoyed a full life, good health (in so far as my chronic pain was under control) and a very busy career at the Bar in addition to vast amounts of time assisting your organisation.

In late 2008 when I provided information to members of the Petra Taskforce and then agreed to meet and covertly record Paul Dale, your investigators made it clear that if I did not end up being a witness and giving evidence, I would likely find myself in a situation wherein adverse inferences would be drawn publicly as to my dealings with Dale & others as a consequence of various other witnesses making reference to me in their statements (and proposed evidence). This was a matter of concern to me and a persuasive factor in my ultimate decision to agree to give evidence. I shall return to this point later.

Without re-stating the exact promises that were made to me by senior members of the Petra taskforce on behalf of Simon Overland, it should be noted that at no time did I ever indicate a preparedness to [REDACTED]. In fact it was conceded by numerous members of Victoria Police that because I was such a well-known barrister and was so easily identifiable in public within not just Victoria, but within Australia, that [REDACTED] would be pointless unless I [REDACTED].

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My Writ & Statement of Claim detail the precise conversations and agreement that lead to me effectively "packing up" my life (by March 2009) as I knew it and then complying with the undertakings I gave to Victoria Police (these undertakings were reduced to writing in the document referred to as [REDACTED]). I was repeatedly assured that an "unprecedented degree of flexibility" would be shown given my unique personal circumstances and significantly, the fact that absent my evidence, the view shared by investigators and the DPP was that Dale could not be successfully prosecuted or in fact charged with the murder of Terrence Hodson. As you are no doubt aware, those representations from and discussions with senior members of the Petra taskforce on behalf of Overland and that [REDACTED] were to be reflected in a [REDACTED] which was to be finalised within a couple of weeks of my abandonment of my life.

As history shows, despite months and months of empty promises, pointless meetings and correspondence from me to Simon Overland (see letters dated 7 September 2009, 28 September 2009 and 21 January 2010), that which induced me to up-end my life and to abandon my career & everything else familiar to my life as it then was, resulted in complete disaster.

The officer then in charge of Witsec was utterly incapable of comprehending what had been promised to me in terms of flexibility and seemed to be unable to address the most basic concerns repeatedly expressed by me in terms of wanting definitive answers about [REDACTED] compensation for the loss of my career and other matters. That was of course before my health was destroyed by the months of living [REDACTED] the uncertainty as to every aspect of my life and the incredible stress to which I was subjected.

Again, without re-stating all the specifics (loss & damage are particularised in the Writ), my agreement to assist your organisation as a witness lead to the destruction of my health, the end of most of my professional relationships, permanent damage to my name & reputation, the end of my career and to an uncertain future and a life with a permanent sense of fear.

There is some irony in the fact that as indicated above, one of the reasons why I agreed to risk my life and agree to give evidence was so that the truth of my dealings with Dale & other criminals like him could be accurately detailed in evidence. The very result that your members suggested may occur (absent my voice), that is slanderous and life-endangering public references to me (in the context of the prosecution of Dale) has in fact come to fruition. One only has to consider the publicity late in 2011 when, during the murder trial of Matthew Johnston, statements made by Carl Williams & other criminals, were released to the media. What followed was coverage that created yet more danger to my safety & an enormous level of stress.

This as well as the overall unresolved situation regarding Dale's offending and possible future prosecution, of course continues to affect my health adversely. I fail to see how in the absence of the ultimate disposal of Victoria Police's interest in prosecuting Paul Dale for his corrupt involvement in very serious criminal offending and/or a Coronial Inquest (in which I would be called to give evidence and would likely result in a recommendation being made to charge Dale with offences including murder), I would be able to properly and totally put these matters behind me.

Witsec & my preparedness to accept protection from Victoria Police

The concept of being able to be protected by Victoria Police outside the formal strict regime in which Witsec usually operates was simply unable to be realised by your organisation,

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notwithstanding that was precisely what I was reassured and promised would be available to me.

Despite the passage of time and my litigation, it would appear from your correspondence in addition to the meetings held in 2011, that nothing has actually changed in that regard.

For the record, I did not have any objection to the [REDACTED] as being a place that I would refuse to live in but rather, the [REDACTED] in which I resided for a period in 2009 was unsuitable for numerous reasons. Again, without re-stating that which was detailed in my Writ & Statement of Claim, the most basic premise of my agreement to assist Victoria Police in giving evidence against Dale (and thereby endangering my life) was that I would receive "like for like" with respect to living arrangements, [REDACTED] lifestyle and other matters.

For completeness sake, you ought be aware that those members of the Petra taskforce that were tasked with the job of "managing me" during 2009 in the period during which the [REDACTED] was being put into a [REDACTED] could not make suitable arrangements in terms of [REDACTED] and numerous other day to day concerns. Despite their best efforts, they were not experienced with respect to [REDACTED] acting as [REDACTED] similar to mine or anything else that would have allowed for a smooth transition on the basis of like for like.

Significantly, those members were (repeatedly) made aware of my personal circumstances in minute detail, including my diagnosed chronic nerve pain condition (*Post-stroke trigeminal neuralgia/thalamic pain syndrome*) and in particular, the fact that I not only had no interest in [REDACTED] but rather, that I was informed and repeatedly promised, that I would be [REDACTED] without having [REDACTED]

It is of course, **not** a legislative requirement that [REDACTED] to be accepted by Witsec.

However, as became clear in 2009-10, after almost sixteen months of countless meetings and numerous letters (between your organisation and myself), all whilst my health markedly deteriorated (and was irreparably damaged), there is a policy by Victoria Police Witness Security Unit that mandates [REDACTED] in order to be afforded high level protection whilst a witness and beyond the period of testifying in Court proceedings.

It is disappointing (but hardly surprising) to see that your letter infers that I am being perverse and/or difficult in terms of my personal circumstances and what is seen as my unwillingness to entertain [REDACTED] or to entrust principally my health as well as every other aspect of my life, to a group of members who are simply unable to provide specific precise answers about a variety of matters which would be their sole responsibility (if I was to enter the Witsec Program).

Witsec & my future health

For the avoidance of doubt, whilst I do not take issue with your reference to my serious health problems as "ailments" the clear fact remains that the Witsec program **cannot** accommodate my personal circumstances, more particularly, my need for ongoing medical & psychological treatment and medication for a complex range of medical conditions that are carefully being managed by a multi-disciplinary team of specialists from the [REDACTED]

Hospital, [REDACTED] Hospital [REDACTED] [REDACTED] House (the [REDACTED] Hospital - private), [REDACTED] Private Hospital [REDACTED] & [REDACTED] [REDACTED] in addition to my treating GP, cardiologist, neurologist, psychologist and plastic surgeon. I continue to attend upon at least one of these or other associated practitioners [REDACTED]

Notwithstanding that

- I. your office and your legal representatives have previously received various medical reports detailing some of my medical problems;
- II. three of my treating practitioners were forced to attend the Melbourne Magistrates' Court in March 2010 to give evidence detailing my ongoing need for specific treatment (that evidence was in the presence of Petra Taskforce members);
- III. your members (from the Petra taskforce) visited me in three different hospitals in 2009 & 2010 and were informed in detail of the need for ongoing treatment/surgery/medication; and
- IV. during numerous discussions with members from Taskforce Driver and Witsec from February 15 to early November 2011, your officers were informed of my continued need for treatment/surgery/medication;

it would appear that there (still) remains a fundamental lack of understanding as to the seriousness of my medical issues, that fact that certain of my conditions must be managed with a regime of careful treatment (rather than any suggestion of ever being cured) and most significantly, that I continue to receive psychological treatment & counselling in conjunction with opiate analgesia for my severe neuralgia, tissue breakdowns that require surgical intervention and my post traumatic stress disorder. Each of these are exacerbated and aggravated by anxiety, tension, uncertainty and stress.

It is most unfortunate that as a direct consequence of my agreement (with Overland via the members from the Petra Taskforce) to make a statement and give evidence for Victoria Police, and that which resulted from that agreement (including abiding by all undertakings given by me to your organisation throughout 2009-10) as well as events that have occurred since (such as but not limited to):

- the failure by your members (in March 2010) to give evidence sufficient to obtain a Suppression Order protecting publication of my identity and the nature of my evidence before the Melbourne Magistrates' Court (the transcript of evidence given "in support of the need to protect my identity" is laughable);
- the failure by your organisation to encourage nor support an application to appeal the above-mentioned refusal to grant a non-publication order to protect my identity in March 2010 (the fact that no order was obtained from the commencement of Dale's committal proceedings in March 2010 onwards lead directly to the refusal by the Magistrate to grant a Non Publication order (to protect my identity) in November 2011 (the judgements of His Honour Justice Forrest and His Honour Mr. Reardon make it clear that had there been an order made or an Appeal to the Supreme Court against that refusal from March 2010 then their decisions would have been different);
- the decision by your office to give a copy of my witness statement and the Listening Device recorded conversation between myself & Paul Dale to the Commonwealth

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DPP via members of Victoria Police "seconded to the ACC" so that I could be summonsed to give evidence on behalf of the prosecution against Dale in November 2011 (and the eight months of indecision, inaction and uncertainty that followed),

my health has again deteriorated (I have endured eight further surgeries & hospital admissions *since* August 2010) and not a single day passes in which I do not fear for my safety & security.

The ongoing unresolved matters concerning Dale (to which I am intrinsically linked), not to mention the continued media attention from which I am not protected, all cause more uncertainty, anxiety, fear, stress & severe tension, the very things that my doctors & psychologist advise that I must avoid in order to be able to try to reduce my constant pain and to improve my health.

Obviously, certainty and closure in addition to an appropriate level of protective measures would greatly assist me both physically and mentally.

It is inconceivable that your organisation would continue to genuinely entertain even the remotest possibility that my health & wellbeing could actually be accommodated within the limitations of Witsec. Attending upon any of my treating practitioners [REDACTED] particularly my [REDACTED] sessions with my psychologist, would not be conducive to attaining a positive outcome and would render any treatment sessions pointless.

Having discussed the issue of a [REDACTED] to the strict regime of Witsec with my doctors and with my psychologist, their collective opinion is that the constraints of Witsec (more particularly what has been suggested by way of "flexible conditions" will:

- a) Be adverse to my mental, emotional & physical health;
- b) Increase the symptoms of my diagnosed Depression & Post Traumatic Stress Disorder;
- c) Significantly increase my level of stress & anxiety, thereby increasing my nerve pain;
- d) Put at specific risk the management of neuralgia/nerve pain by reason of the necessary removal of [REDACTED] (upon entry to Witsec), [REDACTED] & [REDACTED];
- e) Put at severe risk my mental health; and
- f) Put at risk my life in so far as my medical history of life-threatening medical events is concerned.

Put simply, I am not prepared to place myself into any situation in which there is a genuine risk to my state of health by reason of the Witsec Program's inability to accommodate my need for ongoing medical care/treatment. It would appear that there is still a fundamental lack of understanding as to my needs, both immediate & long-term and an inability to embrace the concept of flexibility.

It would not be enlightening to detail chapter & verse every other issue personal to me that your organisation **cannot** even try to address based upon its adherence to inflexible policies/processes and the simple fact that I present unique challenges to Witsec. One of

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many examples is the fact that I have sole responsibility for the ongoing maintenance of my (recently) deceased mother's estate including the issue of a grant of probate and ultimately, the distribution/realisation of her assets.

Whilst it would probably be unfair to place the representative from Witsec with whom I met I 2011, into the same uninspiring category of his predecessors, I remain unconvinced that my health or indeed, any other matter personal to me, would be capable of being adequately managed by Witsec without the creation of yet more stress, tension & anxiety.

If you are sincere in terms of genuinely offering me formal protection then I would have expected that at the very least, a starting point would be the provision of an [REDACTED] the use of a [REDACTED] that is not [REDACTED] and a basic level of security so that I do not continue to be overwhelmed by fear.

Your Witness Security members could and should provide such protection to ensure that a witness could be protected and available to give evidence.

The critical value of my evidence

In January 2009 investigators from the Petra taskforce took a statement from me in respect of Paul Dale and his involvement in the murder of Terrence Hodson. I was informed that my evidence, including the recorded conversation from December 2008 between myself and Dale, was vital to any prosecution, not simply because of my credibility and reliability as a witness, but due to the admissions he made to me and because my evidence allowed investigators to corroborate the evidence of other (criminal) witnesses, whose evidence alone, was unreliable and unusable.

For reasons unknown, it took more than six months for investigators to meet with me and go over the content of the covertly recorded conversation between myself & Dale. This was very important because much of the transcript being relied upon by Police contained inaccuracies and inaudible references which, when one listened to the recording, were able to be identified and corrected. That meeting with investigators (in late 2009) resulted in numerous additions to my proposed evidence and a plan to make a further statement. Ultimately that offer was rejected by a senior member of Petra despite the investigators being very keen to take such a statement (which they estimated based upon their notes during two days of discussions, to be longer than my first statement.)

If for no other reason than for the sake of completeness, you ought note that I am able to provide further information about Dale that I believe would support charges of drug trafficking, conspiracy to commit (an aggravated) burglary and murder.

That (additional) evidence includes but is not limited to the following:

- Conversations between myself and Dale in relation to his interest and concern as to the large amount of cash and drugs stolen during the Grand Final night (2003) burglary of the safe house and which criminals that property belonged to;
- The theft of a massive quantity of MDMA tablets from that property (by others acting with Dale) and their subsequent distribution via certain drug traffickers in Melbourne in late 2003;
- The identification of those MDMA tablets via FSL analysis;
- Dale's inappropriate/corrupt relationships with various criminal identities;

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- The handwritten notes made by Dale during my meeting with him in December 2008 (such notes were shown to investigators upon my return to meet them for a debrief but were, for reasons that escape me, never seized by Police);
- Dale's inappropriate/corrupt relationship with other serving (current) members of Victoria Police. This specifically includes his relationship with a particular Detective Senior Sergeant of Police who perjured himself when he gave sworn evidence in the November 2010 committal hearing relating to Dale's appearance before the ACC);
- My knowledge of that (current) member's corrupt relationship with Dale; and
- Specific conversations with Dale and his associates that would tend to support criminal charges.

I am **the only** witness able to give evidence of facts and matters that are capable of leading to a conviction.

Notwithstanding the recent risk assessment and notwithstanding the continued failure of your organisation to provide me with **any** form of actual security or protection, I remain prepared to assist Victoria Police in the resolution and prosecution of matters concerning Paul Dale.

I am informed that those members (from Taskforce Driver) with whom I had preliminary discussions throughout the period of me being required as a prosecution witness against Dale during 2011, wish to have further discussions with me (based upon my offer to provide additional information as to Dale's offending and my offer to provide additional statements against him). However those members who of course have had the opportunity to assess my credibility and accuracy of information (in 2011), are now embargoed from speaking to me for reasons best known to your office.

I have been informed by a number of members of Victoria Police that they are under a directive from your office that prohibits any contact with me at all. You would be aware that there are no restrictions of this nature contained in my Terms of Settlement. Kindly advise of the basis for such a directive.

Notwithstanding any of the aforementioned, I remain ready, willing and able to assist in relation to this matter but hurdles being put in the way continue to frustrate any genuine Police investigation as well as the resolution of serious crimes.

Moving forward & the continuing risk to my life

Leaving aside the specifics of my (confidential) Terms of Settlement (dated August 2010), your letter states that Victoria Police do not intend to rely upon me as a witness (against Paul Dale) but that position does not cover the possibility or indeed probability, of me being:

- i. Required to give evidence as a prosecution witness against Paul Dale in respect of (his) upcoming trial for offences relating to evidence (falsely) given before the Australian Crime Commission; or
- ii. Called to give evidence by the Victorian Coroner if or indeed when there is an inquest in relation to the deaths of Terrence & Christine Hodson.

Notwithstanding the position expressed in your correspondence, you should be aware that via my (current) solicitors, highly confidential representations have been made on my behalf regarding an offer by me to make a further statement/statements to investigators in relation to Paul Dale, allegations against him of a conspiracy to traffick and other serious offences from September 2003 as well as evidence that supports a conclusion that he was involved in

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the murders of the Hodsons. As previously indicated, I have access to the notes made by Paul Dale when I met and covertly recorded him in December 2008. Those notes were shown to investigators upon my return from the meeting but no request was made to retain them despite the fact that they are primary evidence and shed light on aspects of the interpretation of the listening device conversation.

Upon Chief Commissioner Lay's formal appointment late last year, he made certain public announcements with respect to a handful of outstanding matters of significant interest to Victoria Police, that is, to unsolved crimes of a particularly heinous nature that cause concern the citizens of Victoria and strike at the foundation of the criminal justice system. Mr. Lay's reference to the "unresolved" murders of Terrence & Christine Hodson was accompanied by a promise to the public that it was his intention to bring the case to a final resolution.

Given the Chief Commissioner's very public proclamation about this matter and my (ongoing) preparedness to assist in the prosecution of the person believed to be responsible for the murder, in addition to the fact that in the absence of my evidence, a successful prosecution remains very unlikely, I am surprised that I am being treated in the manner of your correspondence.

Regardless of whether I am called to give evidence (against Paul Dale) or not, there will continue to be publicity and associated risk to my safety & wellbeing. In fact, as a consequence of the particular (more recent) publicity that flowed from:

- i. The unrestricted release of statements made by Carl Williams and others which included numerous references to me (a number of which were incorrect) during the Supreme Court trial of Matthew Johnstone;
- ii. The expiration of the Non-publication & Suppression Orders at the commencement of the prosecution of Paul Dale by the Commonwealth DPP for offences relating to his evidence before the Australian Crime Commission and the subsequent refusal of a later application for a further Order during and at the conclusion of the committal proceedings against Dale and particularly;
- iii. The provision of the entirety of my Witness statement against Paul Dale to a specific newspaper journalist that I believe was given to the relevant journalist from a retired member of Victoria Police for and on behalf of Paul Dale. (It should be noted that my Witness statement was formally withdrawn from the Brief of Evidence and accordingly, it was not tendered in Court which would ordinarily have enabled the media access to it. Notwithstanding this fact, large parts of my statement, including that I voluntarily & covertly, wore a Recording Device and captured Dale's admissions to numerous offences, were published on the front page of the Sunday Herald Sun).

It would be fair to say that on any view, my safety is compromised and there has been an increased risk to my life. This appears to be the view taken by your organisation as stated in your correspondence with the reference to the post-committal risk assessment outcome wherein it is said that the current risk to my life is "extreme".

I suggest that you undertake an urgent review of Witsec's policy and consider providing me with some form of protection.

After all, if I am to be regarded as a vital witness who may assist in solving one of the most significant criminal investigations in Victoria in the past twenty years and that assistance may

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lead to the conviction of Defendants then there ought to be no justifiable reason, having regard to the evidentiary material from Victoria Police, that my life is at extreme risk, that absent Witsec being capable of flexibility and being able to allow me to continue to focus on rehabilitation and improving my mental health, a [REDACTED] shouldn't be afforded to me.

At the very least, I should be able to try to move on with my life in circumstances in which I can feel safe and secure.

Please understand that should anything happen to me, I have provided specific instructions to my solicitor as to making your advice, the correspondence between the myself and Victoria Police and my repeated requests for assistance & clarification, a matter of public record.

I look forward to your reply to the matters raised herein.

Yours Sincerely,

Nicola Gobbo

cc. **Mr. John Champion SC, Director of Public Prosecutions (Vic)**