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## **Victoria Police Legal & Prosecutions Specialist Branch — Disclosure Action Plan**

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## LEGAL &amp; PROSECUTIONS SPECIALIST BRANCH (L&amp;PSB) – DISCLOSURE ACTION PLAN

## OVERVIEW

In criminal proceedings conducted in Victoria, the prosecution has a duty to disclose all relevant material in its possession to an accused (subject to specific exemptions such as public interest immunity, which are identified on a case by case basis). The duty of disclosure is part of the prosecution's duty to conduct the case fairly and to ensure the accused is aware of the case against them. The 'prosecution' includes police members, police prosecutors, the DPP and lawyers representing the DPP.

Non-compliance with disclosure requirements under the *Criminal Procedure Act 2009* (Vic) and common law may amount to procedural unfairness for an accused and may result in failed prosecutions and the awarding of costs against Victoria Police.

Victoria Police is committed to improving and enhancing its practices for complying with its disclosure obligations in criminal prosecutions. The objective of the Disclosure Action Plan is to implement and monitor initiatives directed to enhancing the effective and consistent management of Victoria Polices' disclosure obligations. This Disclosure Action Plan sets out how the Legal and Prosecutions Specialist Branch of Victoria Police will engage with stakeholders within Victoria Police to improve and enhance Victoria Polices' disclosure practices.

**Part 1** of the Action Plan sets out the purpose, roles and responsibilities of the newly appointed Disclosure Managers within Victoria Police.

**Part 2** of the Action Plan sets out other measures being taken by the Legal Services Department, in conjunction with other stakeholders, in improving Victoria Police disclosure practices.

**Attachment 1**, the **Action Item Register**, sets out the timing and status of the tasks described in the Disclosure Action Plan.

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#### Attachment 1 – Action Item Register

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### PART ONE — DISCLOSURE MANAGERS

#### 1. Establish and recruit two Disclosure Managers

##### **Objective**

To enhance organisational capability in order to achieve effective and consistent management of and compliance with Victoria Police's disclosure obligations by creating the new position of 'Disclosure Manager'.

##### **Action/Implementation:**

In March 2020 the Legal Services Department appointed two Senior Sergeants admitted to practice as Australian lawyers to perform 12 month assignments as Disclosure Managers. The Disclosure Managers hold the necessary security clearances and will be embedded within the investigation and human source management units but will report to the Superintendent, Legal Prosecutions Specialist Branch.

Disclosure Managers will provide support to investigators and promote the management of, and compliance with, Victoria Police's disclosure obligations.

The role of a Disclosure Managers includes but is not limited to:

1. assisting investigators and stakeholders to identify, gather and collect material for the purpose of disclosure;
2. producing disclosure documents as and when identified - in accordance with legislation;
3. interpreting and providing advice on relevant legislation including, but not limited to the *Criminal Procedures Act 2009*;
4. researching current and previous case files and providing advice on matters of disclosure as required;
5. analysing and reviewing case management processes and evidence to promote compliance with practices and procedures for disclosure of relevant material; and
6. identifying and actioning relevant disclosable material.

#### 2. Disclosure Management Framework, policies and procedures

##### *2.1 Victoria Police Manual (VPM) Policy – review of disclosure requirements*

**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by reviewing Victoria Police Manual Policy in relation to disclosure.

##### **Action/Implementation:**

Proposed action is for Disclosure Managers to review Victoria Police Manual policy to communicate and maintain a consistent and transparent approach to disclosure across the

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organisation and identify where the VPM needs to be more robust or amended to reflect legislative requirements.

It is proposed that the VPM Briefs of Evidence, VPM Brief preparation and Management, VPM Case Management, VPM Human Sources will be reviewed by Disclosure Managers to promote consistency.

### *2.2 Instruction guide for redacting information when disclosure is refused*

**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by preparing an Instruction Guide for redacting information to be withheld when disclosure is refused or subject to PII.

#### **Action/Implementation:**

Proposed action is for the Disclosure Managers to prepare a guide for redacting information when disclosure is refused pursuant to the relevant provisions of the *Criminal Procedure Act 2009* or material is subject to PII, Legal Professional Privilege or Client Legal privilege. This initiative is to promote compliance with disclosure obligations and a consistent approach across the organisation for relevant material that requires redaction.

### *2.3 Letters of Assistance / Support*

**Objective:** To promote a consistent approach to disclosure and the use of Letters of Assistance/Support by reviewing VPM and incorporating advice from OPP

#### **Action/Implementation:**

The Human Source Management Unit working with the OPP reviewed the existing VPM in relation to Letters of Support/Assistance and updated the VPM to be published in line with OPP advice. Disclosure managers to review and ensure consistency with training being reviewed and created across the organisation on Letters of Assistance and disclosure obligations.

## **3. Internal Communications**

### *3.1 Statement of Intent*

**Objective:** To inform members about disclosure initiatives being implemented and achieve the proper management of disclosure practices by issuing a Public statement of Intent endorsed by the Executive Director, Superintendent Legal Prosecutions Specialist Branch and Superintendent Prosecutions Court Branch.

#### **Action/Implementation:**

Superintendent David Griffin, Legal Prosecutions Specialist Branch composed a Statement of Intent to be endorsed by Executive Director Findlay McRae and Superintendent Steve Gleeson, Prosecutions Court Branch.

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The Statement of Intent confirms the commitment by Legal Services Department Leaders in ensuring that criminal processes are conducted fairly and in accordance with the law. It details several initiatives that have been implemented and those that are envisaged in the next few months to be implemented to provide support to the organisation in ensuring practices related to disclosure are properly managed and disclosure obligations complied with.

They include:

- The establishment of dedicated “Disclosure Managers” embedded within LSD – to monitor compliance and provide subject matter expertise and advice,
- The development of a dedicated Disclosure (Action) Plan to inform objectives, monitor compliance and assess progress,
- Consultation and engagement with key stakeholders, including State and Commonwealth Directors of Public Prosecutions, the courts and broader legal fraternity,
- Comprehensive review and gap analysis of Victoria Police disclosure.

### 3.2. Intranet Page

**Objective:** To build organisational awareness of disclosure management and legislative obligations by creating a dedicated Intranet page focussing on Disclosure.

#### **Action/Implementation:**

Creation of a dedicated Intranet page that will be accessible to the organisation and maintained by the Legal Prosecutions Specialist Branch.

The Intranet Page will focus on all aspects of disclosure and will include:

- Public Statement of Intent endorsed by Legal Service Departments leaders (item 3.1)
- Link to the High Court Judgment in *AB (a pseudonym) v CD (a pseudonym), CD (a pseudonym), v EF (a pseudonym)* [2018] HCA 58.
- Links to relevant legislation governing disclosure such as the *Criminal Procedure Act 2009* and relevant common law.
- Disclosure Process Flow chart
- Victoria Police policy relating to disclosure
- Link to Policy of the Director of Public Prosecutions for Victoria
- Link to Disclosure Handbook
- Links to training hubs including ‘Disclosure 2020’ video
- Link to Disclosure document utilised in the Specialist sex court, endorsed by key stakeholders
- Information on and status of disclosure initiatives being implemented by Legal Services Department
- Links to United Kingdom and Canadian Disclosure Models
- Links to National Disclosure Models from New South Wales and Western Australia
- Link to Disclosure PBEA for relevant enquiries.

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Disclosure Managers and the Legal & Prosecutions Specialist Branch business coordinator have been allocated to construct the Intranet page.

### 4. Training

#### 4.1. Organisation wide training

**Objective:** To support members' compliance with their disclosure obligations by providing updated and accurate training in line with legislative and common law requirements. To promote a consistent and transparent approach to disclosure across the organisation.

**Action/Implementation:**

To develop organisational wide training in relation to disclosure, a comprehensive training gap analysis and review of current training content is required to be conducted by Legal Prosecutions Specialist Branch.

Preliminary discussions with Legal Prosecutions Specialist Branch and People Development Command have identified additional and ongoing training opportunities for members and an opportunity to confirm to members the importance of compliance with disclosure obligations. Targeted areas include Sergeants Qualifying Program, Protective Service Officers, Centre for Investigation, *Taking Charge* and Foundation Training.

To ensure all members receive updated and ongoing training (beyond Disclosure 2020 Learning hub presentation – see item 11.1) the Disclosure Managers will undertake a training gap analysis by consulting Prosecutions Frontline Support Unit, Regional & Divisional Training Officers, Prosecutions Court Branch to identify costs orders made against Victoria Police for failing to comply with disclosure obligations.

#### 4.2. Training delivered by People Development Command (PDC)

**Objective:** To support members' compliance with disclosure obligations by providing updated and accurate training in line with legislative and common law requirements. To promote a consistent and transparent approach to disclosure across the organisation.

**Action/Implementation:**

To develop organisational wide training in relation to disclosure, a comprehensive training gap analysis and review of current training content is required to be conducted by Legal Prosecutions Specialist Branch and People Development Command.

An initial meeting between Legal Prosecutions Specialist Branch and People Development Command has occurred with the initial training gap analysis conducted by People Development Command and has been provided to Disclosure Managers.

Preliminary discussions have identified additional and ongoing training opportunities for members to saturate the organisation and confirm the importance of compliance with

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disclosure obligations. Targeted areas include Sergeant's Qualifying Program, Protective Service Officers, Centre for Investigation, *Taking Charge* and Foundation Training.

Disclosure Managers will conduct a review of all current and proposed training materials and inform training content. People Development Command will remain responsible for delivery of the training across the organisation (with the exception of Prosecutor Training which remains with Legal Services Department.)

### 4.3 Disclosure Team Training

**Objective:** To support members' compliance with disclosure obligations by providing updated and accurate training and advice in line with legislative and common law requirements to Crime Command and Intelligence and Covert Support Command.

**Action/Implementation:**

It is proposed that Disclosure Managers will work with the Intelligence and Covert Support Command, specifically Human Source Management Unit, and Crime Command to build a process that will support and promote robust disclosure practices and compliance. The Disclosure Managers will act independently of Human Source Management Unit and Crime Command to maintain a level of independence.

Disclosure Managers will research and engage in training to be able to provide accurate and informed legal advice to Crime and Intelligence and Covert Support Commands. Policy, procedure, training and scope of responsibilities is to be developed.

The Disclosure Managers hold a Level 2 Negative vetting security clearance and a Certificate IV in Training and Assessment. The Certificate IV in Training and Assessment qualification enables Disclosure Managers to development training materials, conduct assessments and deliver training.

Disclosure Managers will engage in weekly meetings with Crime and Intelligence and Covert Support Commands.

The Disclosure Managers' role within the organisation will be further determined when a Disclosure Management option is determined.

### 4.4. Prosecutor Training Course (PTC)

**Objective:** To provide support to prosecutors appearing in the summary jurisdiction by conducting a training gap analysis in relation to disclosure.

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The Legal Services Department, Research and Training Unit delivers the Prosecutor Training Course (PTC) which comprises 3 Modules that are undertaken over a period of approximately 15 months. At the completion of the PTC students attain the Graduate Certificate in Police Prosecutions, which is a nationally accredited qualification.

The Legal Services Department has partnerships with several universities such as Deakin University, Victoria University and University of New England (UNE) that offer a pathway to attain a Bachelor of Laws. Each university has offered students recognised prior learning for several subjects if they hold the Graduate Certificate in Police Prosecutions. For example, UNE will award 72 credits without a previous Bachelor's degree out of 120 credits required to attain a Bachelor of Laws.

The Legal Services Department recognised that Victoria Police prosecutors appearing daily in the summary jurisdiction are a further safeguard against members' non-compliance with their disclosure obligations.

A training gap analysis conducted by the Disclosure Managers identified that prosecutors are instructed on the following:

- Statutory, Freedom of Information, Further and Better Particulars and Ethical disclosure
- Relevant disclosure provisions in the *Criminal Procedure Act 2009, Evidence (Miscellaneous provisions) Act 1958*
- Reference to relevant common law relating to disclosure
- Relevant examples to demonstrate appropriate disclosure
- Relevant provisions relating to Prohibited Disclosure such as s 48 of *Criminal Procedure Act 2009*
- Privilege including, Client Legal privilege, Journalist privilege, Religious confessions, Privilege against self-discrimination, and Matters of State and associated legalities provisions and common law
- Recommended Reading Guide in relation to Disclosure and types of Privilege.

It was also identified that training in relation to Public Interest Immunity (PII) was minimal. Training relating to PII was created and delivered on the PTC run in March 2020.

Prosecutors on the PTC have been provided with a hard copy of the Disclosure Handbook in addition to the two comprehensive lectures relating to disclosure.

The disclosure lectures and recommended reading guide are available for all prosecutors to access. The disclosure lecture relating to PII will be recorded and made available to all prosecutors.

## 5. Organisational Consistency

### 5.1 Civil Litigation Unit and Freedom of Information Unit

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**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by assessing the impact of disclosure on Civil Litigation Unit and Freedom of Information.

**Action/Implementation:**

Each of these units have obligations to disclose information related to criminal or civil prosecutions or investigations. They may have existing practices or considerations that may inform or impact on disclosure obligations of the organisation. It is necessary to consider how they manage information and their responses relating to PII claims.

Disclosure Managers will liaise with each unit and review policy and procedure to promote a consistent and transparent response to disclosure across the organisation. Review of procedure may inform and contribute to a best practice model for the organisation and subsequent review of Victoria Police Manual Policy in relation to disclosure.

### 5.2 Professional Standards Command (PSC)

**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by assessing the impact of disclosure on Professional Standards Command (PSC).

**Action/Implementation:**

PSC investigations often run concurrently with criminal prosecutions. This information is owned by Victoria Police and arguably there is an obligation for Victoria Police to disclose additional information sourced during PSC investigations. This may impact on the way investigations are maintained and how the information is held.

Disclosure Managers will liaise with PSC and review policy and procedure to promote and maintain a consistent and transparent response to disclosure across the organisation.

Review of procedure may inform and contribute to a best practice model for the organisation.

### 5.3 Subpoena Management Unit

**Objective:** To support the Subpoena Management Unit by promoting the adoption of consistent policy and practices and to assist in ensuring that information pertaining to disclosure obligations and Public Interest Immunity claims is correct and consistent.

**Action/Implementation:**

Disclosure Managers are conducting a review of relevant areas who inform on disclosure practices across the organisation.

The Subpoena Management Unit receives approximately 400 subpoenas a month. Approximately 20 subpoenas request information relating to a human source. These matters

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are referred to the Victorian Government Solicitor's Office and the Human Source Management Unit are also notified.

The Subpoena Management Unit utilises pro forma documents to respond to subpoenas. Disclosure Managers will work with the Subpoena Management Unit to promote consistency between all advice and communications and legislative disclosure requirements. A training gap analysis of initial induction training and ongoing training will be conducted.

Disclosure Managers will further review the overlap with the Victorian Government Solicitor's Office and the Human Source Management Unit and the recording of these outcomes.

### 6. Interagency consistency

#### 6.1 Victorian Government Solicitor's Office (VGSO)

**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by promoting an approach to disclosure that is consistent with the approach taken by the Victorian Government Solicitor's Office (VGSO).

**Action/Implementation:**

The VGSO has documented current policy and procedure relating to disclosure into a comprehensive handbook that will assist and inform training for the organisation (see item 9.2).

Proposed action is for Disclosure Managers to meet with VGSO to expand on practices in relation to disclosure. Review of procedure may inform and contribute to a best practice model for the organisation.

#### 6.2 Office of Public Prosecutions (OPP)

**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by promoting an approach to disclosure that is consistent with that of the Office of Public Prosecutions (OPP).

**Action/Implementation:**

Proposed action is for Disclosure Managers to meet with OPP to discuss current practices in relation to disclosure.

Review of practices may inform and contribute to a best practice model for the organisation and ensure consistency across prosecuting agencies.

#### 6.3 Commonwealth Director of Public Prosecutions (CDPP)

**Objective:** To promote a consistent and transparent approach to disclosure across the organisation by promoting an approach to disclosure that is consistent with the approach taken by the Commonwealth Director of Public Prosecutions (CDPP).

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### **Action/Implementation:**

Proposed action is for Disclosure Managers to meet with CDDP to discuss current practices in relation to disclosure.

Review of practices may inform and contribute to a best practice model for the organisation and ensure consistency across prosecuting agencies.

## 7. Specific disclosure issues

### 7.1 Disclosure of 000 calls

**Objective:** To support the Police Communications Centre (D24) by providing specific legal advice in relation to the disclosure of 000 calls and chronologies to informants on request.

### **Action/Implementation:**

This advice will impact significantly on the Police Communications Centre service delivery and potentially affect court hearings resulting in delay and potential costs.

Disclosure Managers will formalise advice in relation to disclosure, review pro forma documents advising informants as to disclosure obligations and provide options to reduce impact on service delivery and delay.

### 7.2 Body Worn Camera (BWC)

**Objective:** To promote member compliance with disclosure obligations and consistency of advice when Body Worn Cameras are used to capture statements.

### **Action/Implementation:**

The Body Worn Camera project can capture direct and objective audio and video recordings of police interactions with members of the public, as well as real time capture of video evidence at crime scenes and incidents.

Disclosure Managers to become familiar with process and policy governing Body Worn Cameras and Evidence.com for storing and providing access of disclosable video to defence. Potential expansion of use of Body Worn Cameras to capture victim and witness statements may impact the way members comply with disclosure obligations. A review of process and policy may inform and contribute to a best practice model for the organisation and inform VPM review.

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## PART TWO — OTHER DISCLOSURE INITIATIVES

### 8. Governance of disclosure obligations

**Objective:** To achieve a consistent and transparent approach to disclosure across the organisation by promoting the effective management of disclosure by creating a Disclosure Governance Committee.

**Action/Implementation:**

To implement the proposed initiatives across the organisation in relation to disclosure, Victoria Police intends to implement a Disclosure Governance Committee consisting of relevant stakeholders.

Proposed action is for Superintendent, Legal Prosecutions Specialist Branch to identify key stakeholders and establish Disclosure Governance Committee.

Relevant internal stakeholders to be invited are the Capability Department, Human Source Management Unit, Crime Command, Professional Standards Command and People Development Command. Consideration of extending to external stakeholders such as the Office of Public Prosecutions will be considered.

### 9. Disclosure Management Framework, policies and procedures

#### 9.1 Disclosure Management Framework

**Objective:** To achieve organisational consistency and promote compliance with disclosure obligations and transparency and fairness to an accused person by developing a Disclosure Management Model.

**Action/Implementation:**

To address a number of issues arising as a result of non-compliance with disclosure obligations and lack of awareness of the consequences of non-compliance, such as unfairness to the accused, lack of transparency, failed prosecutions, costs awarded against the organisation and reputational harm, the Legal Prosecutions Specialist Branch has revisited the retired Brief and Investigation Support (BISC) Model.

The BISC model focussed on the summary jurisdiction and brief quality assurance. It did not capture other Victoria police areas and units that prepared briefs of evidence such as Crime Command. Whilst the Sergeants attached to the BISC units were able to provide advice to frontline members, disclosure was not the primary focus of the unit.

The BISC model, whilst endorsed by Executive Command, was not expanded across the organisation as it involved an additional 76 Sergeant positions being allocated to support the model, which would have reduced resourcing across frontline policing. In addition, if it was to support the entire organisation these resourcing numbers would increase.

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The BISC model was used a foundation for the development of Disclosure Management Options for Victoria Police to consider. The initial framework and duties of the BISC model would have some application to the Disclosure Management Options and therefore provided a basis to develop options that addressed disclosure more specifically.

Legal Prosecutions Specialist Branch have developed four Disclosure Management Options. These Disclosure Management Options consider specific offences, jurisdictions, viability, implementation time frames, indicative costing, ensuring there is transparency and conflict of interest considerations to name a few.

The four Disclosure Management Options have been submitted to Executive Command for consideration and approval.

### *9.2 Central Reference Guide*

**Objective:** To achieve organisational consistency and promote compliance with disclosure obligations, adopting the Victorian Government Solicitor's Office ('VGSO') Disclosure Handbook as a Central Reference Guide.

#### **Action/Implementation:**

The VGSO, in conjunction with Victoria Police, documented current policy and procedure relating to disclosure into a comprehensive handbook.

The Disclosure handbook initiative was implemented and formed the basis for the 'Disclosure 2020' video presentation. This presentation is live and was made available on the Victoria Police Learning Hub for all employees on 25 February 2020.

The Disclosure Handbook forms part of the Disclosure 2020 presentation. A link to the Handbook is included in the presentation. This provides members with an easy to access reference which read in conjunction with the presentation ensures that disclosure obligations are reinforced across the organisation at all levels.

Legal Services also recognised that Victoria police prosecutors appearing daily in the summary jurisdiction are a further safeguard to promote members are aware of and comply with their disclosure obligations. Prosecutors on the Prosecutor Training Course are provided with a hard copy of the Disclosure Handbook in addition to two comprehensive lectures relating to Disclosure.

The Disclosure Handbook will further inform organisation-wide training in disclosure.

### *9.3 Standard Disclosure Items in committals for sex offences involving children or cognitively impaired people*

**Objective:** To achieve consistency across the organisation and promote compliance with disclosure obligations by creating and agreeing on a list of disclosure items to be disclosed

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to an accused in proceedings for sexual offences in the Magistrate's Court or the County Court where the child is a complainant or cognitively impaired.

### **Action/implementation:**

A standard list of items for disclosure (Standard Disclosure Items) to an accused in proceedings for sexual offences in the Magistrate's Court or the County Court where the child is a complainant or cognitively impaired was developed. The Standard Disclosure Items list was agreed through consultation with the County Court of Victoria and Magistrate's Court of Victoria, Victoria Legal Aid and the OPP.

## 10. Internal Communications

### 10.1 Internal Newsletter Article

**Objective:** To promote awareness among members of disclosure obligations and newly developed Disclosure Training by publishing a news article in The Gazette.

### **Action/Implementation:**

The Legal Services Department is utilising all forms of media to communicate to the organisation the importance of complying with disclosure obligations and increasing awareness and conversation around disclosure.

The Legal Prosecutions Specialist Branch together with the Media Unit composed a news article to be published in The Gazette. LPSB recognised that any communication relating to Disclosure should be on the front cover.

The article addressed and quoted Superintendent David Griffin, Legal Prosecutions Specialist Branch in relation to:

- Compliance with disclosure obligations is of paramount importance and a legislative requirement,
- The ongoing disclosure obligation on each informant,
- The Issues that arise from non-compliance,
- The introduction of Disclosure training that will be required to be completed by all police officers, Transit Protective Services Officers and Victorian Public Service lawyers,
- Relevant material and grounds to refuse disclosure found in the *Criminal procedure Act 2009*, and
- The Legal Services Department can provide advice on any concerns staff may have regarding disclosure.

The 'Court disclosure training for all officers' news article was published on the front cover of The Gazette on Monday 2 March 2020.

## 11. Training — Instructional Disclosure Video disclosure

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**Objective:** To achieve organisational consistency, promote the proper management of disclosure-related practices and promote member awareness of the importance of complying with disclosure obligations by creating an instructional 'Disclosure 2020' Module and video presentation.

**Action/Implementation:**

Consultation with People Development Command and the Digital Education Unit to create an instructional module and video presentation on disclosure for Victoria Police.

Creation of story board and comprehensive script by Legal Services, Crime Command and the Judiciary to provide background, the importance of complying with disclosure obligations in the first instance is paramount and consistent guidance to members on how to approach disclosure.

Deputy Commissioner Wendy Steendam to provide the background and an introduction to the importance of complying with disclosure obligations in the first instance.

County Court Judge, His Honour Judge Paul Higham to provide insight as to why individual commitment to disclosure is so important.

Detective Senior Sergeant Julian Horan of the Homicide Squad created a flow chart to provide guidance to members on how to approach and analyse 'relevant material' that must be disclosed.

Detective Senior Sergeant Pixie Fuhrmeister presents on what is 'relevant material'.

On 25 February 2020 the 'Disclosure 2020' training went live on the Victoria Police Learning Hub and is accessible to all Victoria Police employees.

It consists of five Modules:

- Disclosure: Background
- His Honour Judge Paul Higham
- Concerns about Disclosure
- Disclosure in Victoria Police
- What is relevant material?

The Disclosure Handbook forms part of the Disclosure 2020 presentation. A link to the Handbook is included in the presentation. This provides members with an easy to access reference which read in conjunction with the presentation ensures that disclosure obligations are reinforced across the organisation at all levels.

There is a Learner Acknowledgement required at the completion of the training which will allow for compliance to be monitored.

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## 12. Organisational consistency — HSMU

**Objective:** To build organisational capability and promote the effective consistent management of disclosure by informing Human Source Handlers as to disclosure obligations and considerations.

**Action/Implementation:**

There was a recognised need to inform all Human Source handlers in relation to disclosure obligations and considerations in light of the recent findings in the High Court Judgment in *AB (a pseudonym) v CD (a pseudonym), CD (a pseudonym), v EF (a pseudonym)* [2018] HCA 58 and IBAC investigation which resulted in the Royal Commission into the Management of Police Informants (RCMPI).

The Victorian Government Solicitor's Office attended the Human Source Management Unit conference conducted on 14 – 15 November 2019 presenting on disclosure obligations and considerations. A further training presentation was delivered by the VGSO to the Human Source Management Unit on 3 March 2020.

It is proposed that Disclosure Managers will work with the Human Source Management Unit to build a process that will support and promote robust disclosure practices and compliance. The Disclosure Managers will act independently of Human Source Management Unit to maintain a level of independence.

## 13. Electronic Brief (EB) System

**Objective:** To support members in complying with disclosure obligations by developing the Electronic Brief Disclosure system to facilitate disclosure in the indictable and summary jurisdiction.

**Action/Implementation:**

The Electronic Brief Disclosure system is a mechanism for Victoria Police to replace the current paper-based brief of evidence with a fully electronic version during the discovery phase.

The Central Brief Storage System (CBSS) Disclosure Project commenced on 1 August 2019 as a brief sharing solution between Victoria Police and Victoria Legal Aid (VLA).

The Information and Communication Technology team/contractors (ICT team) is looking at platform options to progress the project.

Other organisational risks associated with the current paper process have been satisfied with interim solutions or have had potential solutions identified. These include:

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- The CBSS is utilised as an on demand electronic version of the brief, electronic disclosure has been embedded within Legal Project Management and Coordination Unit to VLA, DHHS, CV and DFATS;
- Exploring a cloud-based delivery portal for police briefs of evidence to the OPP;
- CBBS Civil Enhancement Project (Family Violence), two phases, (1) enabling police-initiated applications and orders to be uploaded and stored in a central repository, which is currently in the delivery phase; and (2) creating a new interface to enable the automatic transmission of unserved civil applications, orders and related management and notifications between Courts and Victoria Police to the Victoria Police LEAP system; and
- Establishing a new interface between the courts and VicPol to enable Family Violence Intervention Order data and messaging to be automatically transacted between Court link and LEAP, currently in the planning phase.

The Legal Project Management and Coordination Unit will meet with the Office of Public Prosecutions to progress an electronic sharing platform with higher courts, defence and the OPP for hand up briefs.

### 14. Document storage

**Objective:** To support members in complying with disclosure obligations by creating a central electronic document storage system to facilitate disclosure in the indictable and summary jurisdiction.

**Action/Implementation:**

A significant amount of work relating to a proposed central electronic document storage system has been undertaken. This central system will facilitate and compliment members' disclosure obligations by providing a central and accountable storage system and eliminate the need for hard copy documents to be provided.

### 15. Response to the CRUSE decision

**Objective:** To support members in complying with disclosure obligations by providing updated, accurate training in line with legislative and common law requirements. To promote a consistent and transparent approach to disclosure across the organisation by reviewing the decision of *Cruse* and ensuring all training updated to reflect findings.

**Action/Implementation:**

The *Cruse* decision was highly critical of Victoria Police and accepted practices in relation to the perception of collaboration when preparing statements. As a result of the decision all training delivered at Foundation level and Centre for investigation was reviewed and any

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material that was in opposition to the findings from the decision were removed.  
Replacement training is to be drafted.

(See *Cruse v State of Victoria* [2019] VSC 574)

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