

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

**STATEMENT OF PAUL MICHAEL MILLETT**

1. My full name is Paul Michael Millett. I am an Acting Commander of Victoria Police, currently undertaking duties at Taskforce Landow.
2. I make this statement in response to a request from the Royal Commission into the Management of Police Informants for information regarding Victoria Police's disclosure of material in response to subpoenas and other processes.
3. The information necessary to respond to this request has been collated by members of Taskforce Landow. In order to collate this information, Landow members have:
  - (a) conducted extensive searches of Victoria Police records;
  - (b) made enquires of and obtained documents from members of Victoria Police's Subpoena Management Unit (SMU), including as to records maintained by the SMU since August 2007 on a system known as 'SMURFS';
  - (c) made enquires of and obtained documents from the Victorian Government Solicitor's Office (VGSO);
  - (d) considered statements made by various individuals to the Royal Commission; and
  - (e) with the assistance of lawyers acting for Victoria Police in the Royal Commission, prepared:
    - i) an Explanatory Memorandum, setting out a summary of the process which was followed by Victoria Police where a subpoena was issued (or other disclosure request made) (**Annexure A** to this statement);
    - ii) case studies in relation to subpoenas issued by Horty Mokbel, Milad Mokbel and Paul Dale (**Annexure B, C and D** to this statement, respectively).
4. Each case study sets out:
  - (a) the documents that relate to subpoenas issued by the relevant individual, including, where possible, correspondence in relation to subpoenas, evidence

of how Victoria Police's responded to those subpoenas and public interest immunity claims made in respect of those subpoenas;

(b) a summary of the key details that are apparent from the documents.

5. While Taskforce Landow members have conducted wide-ranging searches and enquiries in order to locate as much information as possible to assist the Royal Commission, those enquires are subject to the significant limitations of Victoria Police's current record-keeping and document management systems and resources. The current systems have a number of long-standing deficiencies, including the following issues of relevance:
  - (a) they are not centralised, meaning that searches must be conducted over several different systems and different Units in order to capture all available information;
  - (b) they are not readily searchable, meaning that it can be difficult to apply search terms which return useful and relevant information; and
  - (c) the SMURFS database has some technical limitations which mean that records of certain documents have not been saved. This is explained in some further detail in the Explanatory Memorandum at Annexure A.
6. The summaries at Annexures B, C and D include various examples of VGSO and counsel being briefed to advise Victoria Police in responding to subpoenas and, in some instances, making objections to production of material, including on the basis of public interest immunity.
7. Additionally, Victoria Police have recently been provided with statements produced to the Royal Commission by members of counsel and VSGO solicitors. Among those statements, the statements of Gerard Maguire,<sup>1</sup> Ron Gipp,<sup>2</sup> Shaun Le Grand,<sup>3</sup> Greg Elms,<sup>4</sup> Brian Dennis<sup>5</sup> and Marlo Baragwanath.<sup>6</sup>

<sup>1</sup> COM.0063.0001.0001

<sup>2</sup> COM.0078.0001.0001

<sup>3</sup> COM.0083.0001.0001

<sup>4</sup> COM.0093.0001.0001

<sup>5</sup> COM.0094.0001.0001

<sup>6</sup> RCMP.0035.0001.0001

8. Among the matters dealt with in those statements are examples such as Gerard Maguire's advice to Victoria Police in respect of disclosure to Paul Dale in 2011 and Ron Gipp's advice to Victoria Police in respect of disclosure to Paul Dale in 2010.
9. Mr Maguire's advice has already been the subject of evidence before the Royal Commission. However, I draw the Royal Commission's attention to the following evidence in Mr Gipp's statement:<sup>7</sup>

*"I was made aware that there was an audio recording between DSS O'Connell and Nicola Gobbo and that, as a registered police informer, she had informed police of criminal conduct allegedly disclosed to her by Tony Mokbel, Horthy Mokbel, Milad Mokbel, Mick Gatto, Rob Karam, [REDACTED] and [REDACTED]"*

*I do not have any recollection as to the nature of those disclosures. The draft confidential affidavit refers to a general description of the types of disclosures such as drug trafficking, the operation of pill pressers, murders, abductions, clandestine drug laboratories, drug importations and attempts to pervert the course of justice. Although I do not specifically recall it, based on my usual practice, I believe I would have asked the Petra Taskforce detectives about the general nature of the disclosures but not the details as I only needed a general description of the disclosures to sufficiently inform the Magistrate as to the basis for the informer privilege claim and to emphasise the seriousness of those disclosures and the potential risk to Nicola Gobbo should that information become known."*

10. Mr Gipp's statement indicates that, in relation to Dale's murder charges, Victoria Police sought advice about disclosure obligations having regard to the context of Ms Gobbo being a registered police informer in relation to certain identified persons.

Dated: 30 January 2020



Paul Michael Millett

<sup>7</sup> COM.0078.0001.0001 at paragraphs 28 & 29.

## Annexure A

## Explanatory Memorandum

PII and Subpoena process

20/01/2020

**Royal Commission Request**

The Royal Commission has requested that Taskforce LANDOW analyse the history of disclosure through subpoena requests which relate to Ms GOBBO.

The request from the Royal Commission is as follows

*"We are after a statement from someone within Victoria Police which outlines, so far as it can be ascertained, cases where specific disclosure requests were made and/or subpoenas issued in which the conduct of Nicola GOBBO was considered to be potentially relevant to any response, and the response by Victoria Police to that request. In some cases, such as the committals of Milad and Horthy MOKBEL in July and November 2007 respectively, it seems that there was consideration given to the question by members, and action taken to redact notes etc, but the response was confined to conduct on the part of the SDU and investigators. In other cases, such as the DALE proceedings (Murder and ACC) it seems that legal advice was sought. We understand that advice was sought on other occasions as well. It would be anticipated that all of these response types would be covered in the statement"*

From this request, it was further agreed with the Royal Commission that Victoria Police could provide three obvious examples as a test to identify the usual processes followed. The three examples which were looked at as a reference point were:

- Horthy MOKBEL
- Milad MOKBEL
- Paul DALE

From these three starting points Taskforce LANDOW searched for documents and correspondence related to requests and responses, searching records held by LANDOW itself, the Subpoena Management Unit (SMU), Purana and the VGSO Police Branch.

A summary of the process which Victoria Police followed in response to subpoenas is set out below.

This summary is prepared in the context of subpoenas served on Victoria Police in connection with court proceedings in relation to serious indictable offences.

**Summary of Process**

Having reviewed the above three examples, broadly speaking, the process that was applied by Victoria Police in response to these subpoena requests was as follows:

***Subpoena received by SMU***

SMU is the central management point for all subpoenas served on Victoria Police. The Unit's primary responsibility is to receive, assess, disseminate and monitor subpoenas to ensure compliance. SMU has been delegated authority from the Chief Commissioner of Police (CCP) to accept service of witness summonses and subpoenas addressed to either the CCP or Victoria Police and its employees.

***Subpoena recorded***

The SMU system for recording and tracking subpoenas (SMURFS) was implemented in August 2007. At implementation this system did not back-capture previous subpoenas served on Victoria Police.

SMURFS records basic details of subpoenas received, date, party names, return date etc. The subpoena is allocated a unique identifier (eg. Subpoena 623/2007). Files can then be saved against this identifier as an Attachment, including an electronic copy of the subpoena. The system has some shortcomings, including a technical issue, where attachments saved with the same 'type' were able to overwrite each

other. This technical issue has since been rectified but does not permit the recovery of previously lost attachments. This means that all metadata for subpoenas remains recorded, however some attached files (including copies of subpoenas) have not been saved.

### ***Subpoena is assessed and allocated***

SMU assess the request, in terms of the content and scope and allocate it to a member. This will often be the informant of a criminal matter, but not always. On occasion the informant will have left the organisation or, if the request is voluminous, a member who is not the informant could be nominated.

SMU may contact the officer in charge of the relevant work area in order to determine who best to allocate the subpoena to.

The subpoena is then forwarded to the relevant person, along with pro forma information about how and when to respond, as well as what to do should Victoria Police wish to object to the subpoena in whole or in part.

### ***Collection/Collation***

The allocated member is then responsible for the collection and collation of the materials requested in the subpoena. The allocated member may be able to draw this material from the documents assembled for the Brief of Evidence or may be required to obtain new documents or information. In order to collate such materials, the allocated member will, where necessary, contact other members and units to obtain any additional documents or information.

In larger matters, or where a subpoena requests a large volume of information, the allocated member will need assistance from other members or analysts to find, copy and collate the requested materials. In cases of more complex or time-consuming requests, several members may be required to work for a significant period of time just in the compilation and copying of requested material.

### ***Potential objection raised***

Where an allocated member intends to raise an objection to some or all of the subpoenaed material, this intention is conveyed to SMU.

The allocated member would complete and submit to SMU a Notice(s) of Objection.

The Notice of Objection is a proforma document provided by SMU for the recording of objections to request in a subpoena. The Objection Schedule is completed by recording information against each item requested in the subpoena. A description of what is requested, any clarifications, whether the item is in the possession of police, whether it has been released or not, and the nature or substance of the objection to providing the document or thing.

The completed form is returned to SMU by the allocated member.

### ***Instructions provided to Victorian Government Solicitor's Office—Police Branch (VGSO)***

Any necessary Objection Schedule is prepared by the relevant member, then reviewed and forwarded by SMU to the VGSO police branch. Where the objection schedule contains a claim of public interest immunity (PII) as the reason for the objection, consideration is then given to briefing the matter out to counsel to prepare and contest the subpoena. In this case, the Objection Schedule itself will constitute the instructions provided to counsel.

In the event counsel is required to appear in a subpoena argument, approval is sought from Legal Services Department to approve and fund this course of action.

### ***Brief to Counsel***

As outlined above, where a contested subpoena hearing is required and counsel is to appear, VGSO will brief counsel.

As per the evidence of Insp. Boris BUICK at the Royal Commission, his approach was to provide copies of the requested materials to counsel, with highlighting applied to those sections of the documents where redaction is required. This, in combination with the Objection Schedule and, where necessary conferences with the member asserting the claim, informs counsel of the requested information, the objection(s) and the content which police seek to redact.

### ***Contested Subpoena Hearing***

Once an objection to disclosure has been made, any contested subpoena hearings are conducted as required.

### **Disclosure by other method.**

As detailed in the summary document to follow for Milad MOKBEL, there are ancillary disclosure processes which occur outside the subpoena process. At the time of these proceedings, in the indictable jurisdiction, the defence could serve a Form 8A, Response to a Hand-up Brief, including notice of intention to cross examine witnesses and requesting disclosure of documents in response to the service of the hand up brief. The informant would then be required to respond with a Form 9A. (These processes have since been replaced by the procedures set out in the *Criminal Procedure Act 2009*, including the Form 32 Case Direction Notice).

Members who provide documents such as diary notes to the allocated member for the purpose of disclosure will usually redact any irrelevant material from those notes before providing them. Members may also have redacted, for privacy reasons, detail such as witnesses' addresses or phone numbers, and also may have made redactions based on PII claims.

### **General approach adopted by the HSMU**

Hotham-O

of the Human Source Management Unit

(HSMU) at the relevant time, sets out his knowledge of processes related to subpoenas and disclosure at paragraphs 40 to 47 of his statement.<sup>1</sup> In summary, Hotham-O statement includes that:

- (a) it was relatively uncommon for records relating to human sources to be requested;
- (b) if broad subpoenas were received, investigators would generally ask defence lawyers to clarify their request and specify particular documents that they wanted. Sometimes this involved informing investigators of possible PII claims so that they could use this information to negotiate with defence lawyers;
- (c) if a request for human source materials were pressed, the HSMU would usually obtain legal advice from the VGSO about what would need to be produced and any PII claim asserted over human source materials;
- (d) HSMU would work with investigators to review material and identify documents to produce;
- (e) where the material related to sources handled by the Source Development Unit (SDU), members of the SDU may also assist in that process;
- (f) when asserting a PII claim, the HSMU would generally instruct the VGSO or counsel to prepare a confidential affidavit setting out the basis for the claim, which were often, but not always, sworn by HSMU members; and
- (g) the decision as to whether or not material should be produced was then left to the Court.

### **Documents not located**

While Victoria Police has made wide-ranging enquiries in order to locate the necessary information to assist the Royal Commission, these enquiries have impacted by the limitations in the current record-keeping and document management systems. Victoria Police's current systems are not centralised and readily searchable. Consequently, enquiries have been cumbersome and have necessarily included the involvement of SMU members to provide records kept on their separate system. Further, it was necessary to request material held by the VGSO, which is no longer able to be found Victoria Police's possession.

Should further relevant material be located, Victoria Police will produce such material to the Royal Commission.

Annexure B

Case Study 1: Horry Mokbel – Subpoenas & Disclosure

Summary:

Background:

1. Horry Mokbel was a target of Operation Tool, which commenced in February 2007 and was an auxiliary joint operation (AFP, Customs and Victoria Police). The operation targeted importation of precursor chemicals by Mokbel and others.
2. Mokbel was also a target of Operation Posse which was a criminal proceeds investigation from a team at Purana who conducted detailed financial investigations into the Mokbel family and associates.

Subpoena example

In August 2008, in the lead up to Mokbel's trial in the Supreme Court (court reference 1498 of 2007), the defence requested disclosure of Information Reports (IRs), apparently relating to Person 14, which were provided in redacted form. On 1 September 2008, during the trial, DSC Tim Johns was informed by counsel for the defence that a subpoena would be issued requiring production of IRs without redactions. A subpoena was then issued on 1 September 2008, returnable on 3 September 2008 (**Subpoena H1**).

The VGO briefed Ron Gipp of counsel to advise and appear on 3 September 2008 to object to the subpoena. Johns prepared an Objections Schedule, which he sent to SMU on 2 September 2008 and worked with counsel, Mr Gipp, to prepare a confidential affidavit, which exhibited both redacted and unredacted versions of the IRs. Johns' diary records that the Confidential Affidavit was filed at the hearing of the objection to the subpoena on 3 September 2008. The relevant documents are set out in Table 1 below.

On 4 September 2008, a ruling was given in favour of Victoria Police's PII claims, subject to supplementary evidence being provided. Later on 4 September 2008, Johns prepared a Supplementary Confidential Affidavit. On 5 September 2008, a further ruling was given in favour of Victoria Police's PII claims.

Other subpoenas

In addition to the example referred to, Victoria Police have identified several other subpoenas issued by Mokbel. Given the limitations in the records now available to Victoria Police, copies of those subpoenas have not been located and only limited correspondence has been found. The information located is set out in Table 2 below.

In summary, subpoenas were issued as follows:

1. **Subpoena H1** – 1 September 2008 – Form 6-1A Subpoena returnable in the Supreme Court on 3 September 2008 during trial;

2. Subpoena H2 – 19 November 2007 – Summons to Produce Documents returnable in the Magistrates' Court at committal hearing on 21 November 2007.
3. Subpoena H3 – approximately 12 August 2008 – returnable in the Supreme Court on 18 August 2008.
4. Subpoena H4 – 12 August 2008 – returnable in the Supreme Court on 18 August 2008.
5. Subpoena H5 – 20 November 2008 – returnable in the Magistrates' Court at a Special Mention on 26 November 2008.
6. Subpoena H6 – 8 May 2009 – returnable in the Supreme Court on 19 June 2009, and
7. Subpoena H7 – 21 September 2009 – returnable in the Supreme Court on 5 October 2009.

TABLE 1: Subpoena H1 dated 1 September 2008

Date	Event	Notes/Comments	Evidence
1. August 2008	Defence team seek access to a number of IRs in lead up to trial		Statement of Johns to RC, paragraph [72], VP.L.0014.0118.0001 Diary of Johns
2. 27 August 2008	Johns emails all redacted IRs to Officer Fox		VP.L.6161.0013.4828 and attachments Statement of Johns to RC, paragraph [73], VP.L.0014.0118.0001
3. 28 August 2008	Johns speaks to Officer Fox and Fox indicates the redacted IRs sent on 27 August 2008 could be handed to the defence		Statement of Johns to RC, paragraph [74], VP.L.0014.0118.0001 Diary of Johns

Date	Event	Notes/Comments	Evidence
4. 1 September 2008	Johns speaks to junior counsel for Mokbel, who advises a subpoena will be issued for the IRs	Johns believes defence were not satisfied with redacted versions that had already been provided to them	Statement of Johns to RC, paragraph 1751, VPL.0014.0118.0001 Diary of Johns
5. 1 September 2008	Subpoena issued in Supreme Court Trial (Subpoena H1)	Returnable on 3 September 2008 Schedule to Subpoena H1 is blank, but previous entry suggests subpoena was for IRs Objection Schedule prepared by Johns says that request was for: "All information and reports relating to or touching upon [redacted] and his activities in the period of November 2004 to April 2006" Confined after discussion to some redacted parts of IRs already provided	Cover letter and subpoena, VPL.6161.0008.7808 Attached to email, VPL.6161.0008.7807 Objections Schedule, VPL.6161.0013.0846 Summary of hearing, VGSO.4200.0001.0004
6. 2 September 2008	Email from SMU to Johns assigning subpoena to him	Email flags PII objection; Johns requests Gerard Maguire be briefed	VPL.6161.0008.6359
7. 2 September 2008	Email from Acting Inspector Luke Charlsworth, (SMU), to VGSO, requesting counsel be briefed		Email, VPL.6161.0008.7807
8. 2 September 2008	Johns prepares Objections Schedule and provides it to SMU		Email, VPL.6161.0013.0845 Objections Schedule, VPL.6161.0013.0846

	Date	Event	Notes/Comments	Evidence
9.	2 September 2008	Johns confers with counsel, Ron Gipp, regarding a claim for PII over the content of redacted IRs and has conversations with Charlsworth and Raymond Loh. (VGSO)		Statement of Johns to RC, paragraph [76], VPL 0014.0118.0001 Diary of Johns
10.	2 September 2008	Draft confidential affidavit prepared by Johns	Confidential Affidavit details claims of privilege and objections: <i>"Prejudice police investigation and identify a police informer"</i> . Refers to exhibited redacted and unredacted versions of IRs – Johns recalls these exhibits were provided to the Court on 3 September 2008 Gobbo not mentioned by name but Johns recalls her identity was relevant to part of the claim	VPL 2100.0025.5963 See also, Statement of Johns to RC, paragraph [77], VPL 0014.0118.0001
11.	2 September 2008	VGSO brief Gipp to appear and oppose subpoena		Backsheet, Brief to Counsel, VGSO.4200.0001.0003 Summary of hearing, VGSO.4200.0001.0004
12.	3 September 2008	16 redacted IRs provided by Officer Fox to Johns		VPL 6048.0024.8711 and attachments
13.	3 September 2008	Confidential Affidavit filed with Court at 2.15pm when Gipp appeared to argue the PII claim	Johns' diary records particular IRs and basis for PII claims, including a number of claims related to ongoing investigations and to the identity of sources	Summary of hearing, VGSO.4200.0001.0004 VPL 2100.0025.5963 See also, Statement of Johns to RC, paragraph [77], VPL 0014.0118.0001 Diary of Johns

	Date	Event	Notes/Comments	Evidence
14.	4 September 2008	Ruling in favour of PII claims, subject to supplementary evidence being provided		Statement of Johns to RC, paragraph 180; VPL.0014.0118.0001 Diary of Johns Summary of hearing, VGSO.4200.0001.0004
15.	4 September 2008	Draft Supplementary Confidential Affidavit of Johns	Appears to have been related to a claim regarding Gobbo's identity	VPL.6161.0008.6796 See also Statement of Johns to RC, paragraph 180; VPL.0014.0118.0001 Diary of Johns Summary of hearing, VGSO.4200.0001.0004
16.	5 September 2008	Further ruling in favour of PII claims over IRS Confidential Affidavit returned to Johns, who returned it to Officer Fox		Statement of Johns to RC, paragraph 181; VPL.0014.0118.0001 Diary of Johns Summary of hearing, VGSO.4200.0001.0004

TABLE 2: Other Subpoenas

	Date	Event	Notes/Comments	Evidence
<b>Subpoena H2</b>				
1.	13 April 2007	Mokbel arrested and charged with trafficking a large commercial quantity of a drug of dependence		Statement of Johns to RC, paragraph [65], VPL.0014.0118.0001  See also Statement of Johns dated 30 April 2007 in relation to the arrest, VPL.0209.0001.0775
2.	19 November 2007	Summons to Produce Documents issued (Subpoena H2)	SMURFS system records:  Subpoena allocated the number 1117/2007 by SMU and forwarded to Johns and Detective Inspector Gavan Ryan  Returnable on 21 November 2007 in the Melbourne Magistrates' Court in relation to upcoming committal.  Summons required, among other things, production of "The Listening Device Warrant concerning [REDACTED] on 23, 24 and 25 April 2006 in relation to Operation Posse".	No copy of Subpoena H2 located  Subpoena H2 referred to in Confidential Affidavit, VPL.0216.0003.0009  Cover letter from Grogan Lawyers to Johns dated 19 November 2007, VPL.0216.0003.0008

	Date	Event	Notes/Comments	Evidence
3.		Redacted version of listening device warrant produced to counsel for the accused		Confidential Affidavit, paragraphs [9] and [10], VPL.0216.0003.0009  Redacted version of warrant, "TJ-1" at VPL.0216.0003.0013  Unredacted version of warrant, "TJ-2" at VPL.0216.0003.0018
4.	Approximately 21 November 2007	Advice received from counsel, John Buxton, in relation to PII claim		Statement of Johns to RC, paragraph [70], VPL.0014.0118.0001  Email from Buxton to Johns, VPL.6161.0008.0753
5.	21 November 2007	Affidavit and Confidential Affidavit sworn by Johns in relation to a PII claim, objecting to full production of the listening device warrant	Confidential Affidavit exhibits unredacted listening device warrant and sets out basis for objection to disclosure	Statement of Johns to RC, paragraph [70], VPL.0014.0118.0001  Confidential Affidavit, VPL.0216.0003.0009  Affidavit, VPL.0216.0003.0023
6.	21 November 2007 to 26 November 2007	Committal hearing for Mokbel		Statement of Johns to RC, paragraph [69], VPL.0014.0118.0001

Date	Event	Notes/Comments	Evidence
Subpoena H3			
7. Approximately 12 August 2008	Subpoena issued in Supreme Court (Subpoena H3)	Returnable on 18 August 2008	SMURFS records Subpoena, VPL.0098.0011.0001 at .0001 Reference in SMU email notification to Johns, VPL.6161.0006.1389 See also Statement of Johns to RC, paragraph [72], VPL.0014.0118.0001
8. 13 August 2008	SMU allocates subpoena to Johns	Allocated number 21/52/2008 by SMU Email allocating contains link to subpoena (no longer available) Email requests documents etc be provided directly to Court with copy of subpoena and subpoena cover sheet	VPL.6161.0006.1389
9. 15 August 2008 and 16 August 2008	Johns states in email correspondence that there no longer appear to be any PII issues and Subpoena H3 will be complied with on return date		Email chain, VPL.6161.0006.1802
10. 18 August 2008	Compliance with Subpoena H3		Assumed, based on John email correspondence, VPL.6161.0006.1802

Date	Event	Notes/Comments	Evidence
<b>Subpoena H4</b>			
11. 12 August 2008	Subpoena issued in Supreme Court (Subpoena H4)	Returnable on 18 August 2008 Served on Johns Allocated number 2423/2008 by SMU Requirement to produce documents evidencing conversations between Purana detectives and [REDACTED] and another	SMURFS records Subpoena, VPL.0098.0011.0001 at .0007
<b>Subpoena H5</b>			
12. 20 November 2008	Subpoena issued in Supreme Court (Subpoena H5)	Returnable on 18 August 2008 Allocated number 3131/2008 by SMU Subpoena relates to Mokbel and the charge of Trafficking a Drug of Dependence (Operation Tool matters) Seeking information about the plea of [REDACTED] Requires DSC Hantiss to appear at the Special Mention and give evidence	SMURFS records Subpoena, VPL.0098.0011.0001 at .0013
13. 24 November 2008	Subpoena H5 served on Victoria Police		SMURFS records
<b>Subpoena H6</b>			
14. 8 May 2009	Witness Summons issued (Subpoena H6)	Returnable 19 June 2009	Subpoena, VPL.0098.0011.0001 at .0015
15. 11 May 2009	Subpoena H6 served on Victoria Police	Allocated number 1444/2009 by SMU	SMURFS records

	Date	Event	Notes/Comments	Evidence
16.	2 June 2009	Detective Senior Sergeant Alan Paxton, Purana, forwards Subpoena H6 to Officers Sandy White and Anderson, indicating legal advice will be sought		VP.L.6025.0009.6752
17.	5 June 2009	Email from Officer Black to Officer Fox regarding upcoming meeting between Purana and VGSO in respect of Subpoena H6.	Fox to attend VGSO meeting given knowledge of "background of 38"	Emails, VP.L.6025.0009.3825 and VP.L.6025.0009.5856
18.	10 June 2009	SMU is notified that the VGSO (Raymond LOH) has carriage of this matter to assist with PII issues and compilation of an objection schedule		SMURFS records
19.	19 June 2009	VGSO brief Brian Dennis to appear and oppose	Claims resolved at hearing and subpoena discharged	VGSO.4200.0003.0001 VGSO.4200.0003.0003
20.	3 July 2009	VGSO seek approval for counsel's fees		VGSO.4200.0003.0002
<b>Subpoena H7</b>				
21.	21 September 2009	Subpoena issued in Supreme Court and (Subpoena H7)	Returnable on 5 October 2009	SMURFS records Subpoena, VP.L.0098.0011.0001 at .0017
22.	21 September 2009	Email notification from SMU to Johns assigning Subpoena H6 and notifying him of return date	Allocated number 3001/2009 by SMU	VP.L.6161.0009.5915

	Date	Event	Notes/Comments	Evidence
23.	12 October 2009	Email chain between Loh, (VGSO), and Brian Dennis, counsel regarding folder of documents produced that morning under subpoena and need to write to solicitors who issued subpoena	May relate to Subpoena H6, but unclear	VGSO.4200.0005.0003
24.	12 October 2009	Letter to Grigor Lawyers regarding subpoena issued on 24 September 2009	May relate to Subpoena H6, but unclear	VGSO.4200.0005.0004

Annexure C

Case Study 2: Miad Mokbel – Subpoenas & Disclosure

Summary:

Background:

1. Miad Mokbel was a target of Operation Matchless, which ran from 1 September 2002 until 11 April 2003. It was run in conjunction with, and was an offshoot of [REDACTED] related to amphetamine manufacture in a clandestine laboratory and the supply of that amphetamine.
2. Mokbel was also a target of Operation Posse which was a criminal proceeds investigation from a team at Purana who conducted detailed financial investigations into the Mokbel family and associates.
3. Mokbel was arrested on 25 April 2006 as part of Operation Posse and a committal hearing was listed for 2 July 2007.

A Form 8A was served on behalf of Mokbel on 1 December 2006 on the Office of Public Prosecutions (OPP). Correspondence between Victoria Police and the OPP in relation to what was required to be produced in response to the Form 8A is set out in the table below. The correspondence also gives examples of communication between Victoria Police members requesting notes and other material for the purpose of responding to the Form 8A.

A brief of evidence was served on Mokbel and others on 3 April 2007. On 16 April 2007, Mokbel's matter resolved to a plea.

Victoria Police have conducted searches and have not located any subpoenas or objections schedules for Mokbel for the relevant time period.

Date	Event	Notes/Comments	Evidence
1. 25 April 2006	Mokbel arrested as part of Operation Posse		
2. 26 April 2006	Filing hearing		Email setting out list of court dates, VPL 6030.0003.6873
3. 1 December 2006	Form 8A – Notice of defendant in response to hand-up brief served intention to seek leave to cross-examine five witnesses	Notice that defendant will be seeking leave to cross-examine [REDACTED] and others	VPL 6030.0200.1866 Attached to email from Gerard Leithbridge to Detective Senior Constable Paul Rowe, VPL 6030 0200.1865

	Date	Event	Notes/Comments	Evidence
4.	4 December 2006	Email from Colleen Bell (OPP), to Detective Sergeant [REDACTED] discussing Victoria Police's response to Form 8A		VPL 6030.0200.1769
5.	4 December 2006	Email from Bell to [REDACTED] setting out necessary documents and videos to include in response to Form 8A Response from Johns indicating he will prepare the documents in response to the Form 8A		VPL 0100.0029.0875 at .1023 and .1024
6.	5 December 2006	Further email correspondence between [REDACTED] and Bell		VPL 6030.0200.1769
7.	7 December 2006	Email from Bell to Flynn [REDACTED] Johns and Rowe attaching draft Form 9A to be filed	Email indicates there is an agreement to provide indemnities for [REDACTED] but Victoria Police will resist on PII grounds to the provision of any Information Reports	Email, VPL 6030.0200.1694 (Note: download email to access attached draft Form 9A)
8.	Undated	Form 9A – Notice by informant in response to an application by the defendant to cross-examine a witness and for production of an item listed in the hand-up brief.	Form deals with the responses from Rowe to requests for production of materials such as <ul style="list-style-type: none"> <li>• Running sheets</li> <li>• Attendance register</li> <li>• Notes – prosecution witnesses</li> <li>• Notes – diaries exhibits etc</li> </ul>	VPL 6030.0200.1738
9.	15 December 2006	Committal Mention		Email setting out list of court dates, VPL 6030.0003.6873

	Date	Event	Notes/Comments	Evidence
10.	20 February 2007	Email from Bell to Rowe and Flynn recommending Mokbel brief be served on co-accused's solicitors		
11.	21 February 2007	Email from Rowe to Bell regarding service of Mokbel brief	Email indicates the materials collected will be served directly on defence. Does not indicate there will be a contested hearing or other argument in relation to materials provided.	VPL 6030.0200.3712
12.	22 February 2007	Paul Rowe requests copies of any notes, diary entries or expert witness notes from investigators in relation to Mokbel and others for committal hearing on 2 July 2007	Requests that investigators read, then "sanitise" their notes thoroughly before forwarding them	VPL 0100.0029.0875 (at .1018) See also Statement of Johns, para [59], VPL 0014.0118.0001
13.	3 April 2007	Brief of evidence served on Mokbel and others		VPL 0100.0029.0875 (at .1011)
14.	16 April 2007	Mokbel matter resolved to a guilty plea		VPL 6030.0002.6914
15.	2 July 2007	Committal hearing Mokbel reserved plea and proceeded by way of hand-up brief		Transcript of committal hearing, Day 1, VPL 6030.0005.7220

Annexure D

Case Study 3: Paul Dale – Subpoenas & Disclosure

Summary:

Murder committal - 2010

In relation to Paul Dale's committal for the Hodson murders, three Form 13 Witness Summonses were issued on 27 January 2010 (Subpoena D1), 31 March 2010 (Subpoena D2) and 7 April 2010 (Subpoena D3).

The table below sets out some correspondence in relation to responding to each of these subpoenas.

Two confidential affidavits were sworn by the Informant DSC Cameron Davey and one affidavit was sworn by DI Shane O'Connell.

A letter from the VGSO dated 26 March 2010 states that DI Steve Smith gave evidence in relation to the material requested by Subpoena D1 on 18 and 19 March 2010.

An index of material disclosed in relation to Subpoena D1 in the murder committal is at VPL 6031.0043.1228.

The murder committal hearing was originally listed for 9 March 2010 but adjourned. On 12 April 2010, the committal was further adjourned for some months to enable compliance with Subpoena D3. Carl Williams, a key witness, was killed in prison on 19 April 2010 and the charges were ultimately withdrawn on 4 June 2010, before completion of the subpoena compliance in the matter.

ACC committal – November 2011

DSS Boris Buick began preparing to respond to any subpoena issued by Dale as early as 30 March 2011 (the charges having been filed on 15 February 2011). On 31 August 2011, DSS Buick prepared an Issue Cover Sheet recommending that legal advice be obtained in relation to material subpoenaed relevant to Gobbo and any PII claims. Ultimately, this resulted in advice being provided by Gerard Maguire on 4 October 2011.

On 28 September 2011, an agreement was reached with Dale's solicitor that:

1. the implied undertaking in relation to documents produced under subpoena in the murder committal would be extended to permit those documents to be used by Dale and his lawyers in the ACC committal without need for a further subpoena;
2. Dale would not, therefore, issue a further witness summons to compel production of documents; and
3. the documents to be provided would be redacted to reflect PII claims

Further advice was sought and provided by the VGSO and the CDPF in relation to Victoria Police's disclosure obligations as set out in the table below.

On 7 November 2011 Graham Ashton informed the CDPF by email that Victoria Police considered the committal hearing commencing on 9 November 2011 should only proceed in relation to charges which did not rely on Ms Gobbo's evidence.

	Date	Event	Notes/Comments	Evidence
1.	19 June 2009	Committal hearing listed for 3 weeks from 9 March 2010		O'Connell Statement, paragraph [148], VP.L.0014.0115.0001
2.	19 January 2010	VGSO open a file titled "Paul Dale - Subpoena"		VGSO.2000.1510.0001 Full file at Levels VGSO.2000.1510 (Vol 1) and VGSO.2000.1511 (Vol 2)
3.	27 January 2010	Form 13 Witness summons issued (Subpoena D1)	Notionally returnable on 1 February 2010  Dale requests the production of documents concerning Gobbo and any agreement with Victoria Police to provide inducements to her to give evidence against Dale.  Refers to Witness Summons issued by Rodney Collins (21 August 2009) [VP.L.0100.0024.1330]	VP.L.0100.0024.1356 - Subpoena and cover letter from Tony Hargreaves (cover letter dated 25 January 2010, but subpoena dated 27 January 2010) cf. email at VP.L.0005.0003.6391 Brief reference in Statement of Shane O'Connell at VP.L.0014.0115.0001
4.	28 January 2010	Fin McRae, Director Legal Services, was informed by David Ryan (VGSO) by email that the subpoena was received by VGSO	Email expresses the view that documents relating to payments made to Witness F must be produced and all documents in CCP's possession relating to without prejudice negotiations between Witness F and Witness Protection do not strictly come within the scope of the subpoena, but are likely to come to the defence's attention during the committal. DPP should be asked to consider whether appropriate to disclose the existence of these documents. If disclosed, CCP should claim documents cannot be produced to the Court on PII grounds.	VP.L.0005.0003.6391

Date	Event	Notes/Comments	Evidence
		Would require affidavit in support of PII claim	
5. 3 February 2010	Conference between Ron Gipp of counsel and, probably, Greg Elms (VGSO) and Davey		Statement of Gipp, paragraph [17] COM.0078.0001.0001
6. Undated	Letter from VGSO to Tony Hargreaves regarding tentative understanding reached in respect of disclosure to be made		VGSO.5000.0005.0673 See also email at VGSO.5000.0005.0664 See also Statement of Gipp, paragraph [17] COM.0078.0001.0001
7. Undated	Letter from VGSO to Tony Hargreaves setting out objections and PII claims, including in respect of audio recording of conversation between Gobbo and Dale		VGSO.5000.0005.0681 See also email at VGSO.5000.0005.0664
8. 22 February 2010	Material provided to Tony Hargreaves in response to subpoena	Receipt signed for Hargreaves setting out items received	VGSO.2000.1511.0040 Note: Statement of Gipp suggests material was provided by 15 February 2010 (paragraph [20]).
9. Undated	Index of material disclosed in relation to Subpoena D1 in murder committal		VPL.6031.0043.1228 (attached to email from Buick dated 17 November 2012, VPL.6031.0043.1226)
10. 1 March 2010	Further documents were examined by Gipp. Gipp met with Petra Taskforce members		Statement of Gipp, paragraph [21] COM.0078.0001.0001

	Date	Event	Notes/Comments	Evidence
11.	9 March 2010	Draft Confidential Affidavit of Davey prepared in support of claim to set aside parts of subpoenas, including in relation to Gobbo material		VPL 6031.0058.3757 (attached to email, VPL 6031.0058.3756)
12.	9 March 2010	Documents within the negotiated narrower scope of the subpoena were produced to the Court		Statement of Gipp, paragraph [24] COM.0078.0001.0001
13.	11 March 2010	<sup>13.0000</sup> was asked for human source management files relating to Gobbo and arranged access to those records relating to Gobbo for Officers Sandy White, Peter Smith and Anderson of the SDU for the purpose of "subpoena compliance"	See correspondence at VPL 6025.0003.5194, VPL 6025.0008.2824, VPL 6025.0003.5194	<sup>13.0000</sup> Statement, paragraphs [53] - [57], VPL.0014.0092.0001
14.	12 March 2010	Confidential Affidavit of Davey		<sup>14.0000</sup> VGSO.2000.1510.0067 Statement, paragraphs [53] - [57], VPL.0014.0092.0001
15.	12 March 2010	Affidavit of O'Connell		<sup>15.0000</sup> VGSO.2000.1510.0073 Statement, paragraphs [53] - [57], VPL.0014.0092.0001
16.	12 March 2010	Gipp appeared at the Melbourne Magistrates' Court in the committal proceeding	Gipp does not recall, but believes he would have provided the Confidential Affidavit of Davey to the Court	Statement of Gipp, paragraph [30] COM.0078.0001.0001
17.	15 March 2010	Supplementary Affidavit of Davey		<sup>17.0000</sup> VGSO.2000.1510.0065 Statement, paragraphs [53] - [57], VPL.0014.0092.0001

	Date	Event	Notes/Comments	Evidence
18.	18 and 19 March 2010	DI Steve Smith gives evidence regarding Subpoena D1		Reference in letter dated 26 March 2010 [VGSO.2000.1511.0011]
19.	26 March 2010	VGSO writes to Tony Hargreaves and provides further material which came up during Smith's cross-examination on 18 and 19 March 2010	Largely redacted Petra Taskforce update was provided	VGSO.2000.1511.0011
20.	30 March 2010	Committal hearing adjourned to 12 April 2010		Reference in letter of 31 March 2010 from Tony Hargreaves - VGSO.5000.0062.0011
21.	31 March 2010	Further Witness Summons issued (Subpoena D2)	Returnable on 6 April 2010 Letter of 31 March 2010 sets out requested documents	Letter, enclosing subpoena, VGSO.5000.0023.0185
22.	1 April 2010	Letter from VGSO to Tony Hargreaves regarding Subpoena D1 and Subpoena D2	Discusses compliance with subpoenas and claims against disclosure	VGSO.2000.0140.0499
23.	7 April 2010	Further Form 13 Witness Summons issued (Subpoena D3)		Letter and Witness Summons, VGSO.5000.0066.0001
24.	8 April 2010	Correspondence between VGSO and Victoria Police regarding Subpoena D3	Indicates Dave Ryan (VGSO) will provide advice on the scope of the subpoena	VGSO.4100.0001.0650
25.	8 April 2010	Email from Davey estimating time needed to comply with Subpoena D3, including having regard to PII consideration		VGSO.4100.0001.0712
26.	9 April 2010	Ryan (VGSO), notifies McRae, of receipt of Subpoena D3		VPL.0005.0003.0774

	Date	Event	Notes/Comments	Evidence
27.	12 April 2010	Committal hearing adjourned and time frames for subpoena compliance established		VGSO.5000.0005.0664
28.	4 June 2010	Charges against Dale in murder committal withdrawn		Statement of Davey, COM.0041.0002.0002
29.	25 June 2010	VGSO email attaching correspondence in relation to Dale subpoenas		VGSO.5000.0005.0664
30.	30 March 2011	Issue Cover Sheet (ICS) prepared by Buick requesting extra support in the event that a subpoena is issued by Dale, given volume of material disclosed in murder committal and that material will be held across a number of different taskforces		VPL.6031.0058.3002
31.	13 June 2011	Email from Buick to Frewen regarding responding to material given volume of material	Attaching 30 March 2011 Issue Cover Sheet and forwarding email from Buick to Greg Elms	VPL.6031.0058.2995 attaching VPL.6031.0058.3002
32.	31 August 2011	ICS prepared by Buick recommending advice be obtained from VGSO in relation to material subpoenaed relevant to Gobbo and possible PII claims		VPL.6031.0058.3429
33.	7 September 2011	Buick emails Detective Sol Solomon, O'Connell and <sup>James Hales</sup> regarding ICS sent to VGSO requesting advice regarding Gobbo subpoena		VPL.6031.0058.3431

Date	Event	Notes/Comments	Evidence
34. 8 September 2011	[redacted] says he thinks they should all meet to discuss "so there's no confusion about what occurred and what can be said". Solomon details PII submissions at Date/Collins committal		VPL.6031.0013.6680
35. 13 September 2011	Meeting between Gerard Maguire of counsel and Buick regarding Date ACC subpoena material	Meeting may also have been attended by Frewen (see Maguire Statement paragraph [61], COM.0063.0001.0001)	Reference to meeting in email at VPL.6031.0020.6770 and in Management update at VPL.6031.0058.3436 Also Maguire memorandum of attendance at VGSO.2000.1515.0013
36. 15 September 2011	Meeting between Maguire of counsel and Lardner, Andy Bona and Louise Jarrett (VGSO)		Maugire Statement, paragraph [62], COM.0063.0001.0001 Also Maguire memorandum of attendance at VGSO.2000.1515.0013
37. 21 September 2011	Meeting with Maguire of counsel attended by Frewen, Buick, Waddell, Greg Elms (VGSO), Louise Jarrett (VGSO), McRae, Bona and Breckweg.		Meeting agenda (VPL.0100.0025.4529) Also Maguire memorandum of attendance at VGSO.2000.1515.0013
38. 28 September 2011	Maugire of counsel provides and discusses draft memorandum of advice in conference with Buick, Frewen, Sean LeGrand (VGSO), Jarrett, Elms and Sheridan	Provided in person at a conference at VGSO offices	Maugire Statement, paragraph [71] Also Maguire memorandum of attendance at VGSO.2000.1515.0013

	Date	Event	Notes/Comments	Evidence
39.	28 September 2011	<p>Tony Hargreaves letters (x2) record agreement that:</p> <ol style="list-style-type: none"> <li>1. the implied undertaking in relation to documents produced under subpoena in the murder committal will be extended to permit those documents to be used in the ACC committal without need for a further subpoena;</li> <li>2. Dale will not issue a further witness summons to compel production of documents; and</li> <li>3. documents will be redacted for genuine PII claims.</li> </ol>		VGSO.3000.0316.0341 and VGSO.3000.0316.0342
40.	3 or 4 October 2011	Further conference regarding Maguire memorandum of advice and disclosure issues attended by Buick, Frewen, LeGrand, Jarrett, Elms and Sheridan		Maguire memorandum of attendance at VGSO.2000.1515.0013
41.	4 October 2011	Final Maguire advice provided		VPL.0101.0001.0001
42.	5 October 2011	VGSO advise that all investigator notes have been requested (not just Buick's notes)		Email at VGSO.3000.0316.0406 (at .0407)
43.	6 October 2011	Buick prepares a briefing note in relation to Witness F, including references to disclosing subpoenaed material that would expose Gobbo as a human source	See 'Human Source Considerations' heading Buick notes: <i>It is apparent that no material relative to Witness F's status as a registered human source was prepared for disclosure or argument pursuant to any of the several subpoenas (sic) issued during the course of the DALE murder prosecution, although it should be noted</i>	VPL.6031.0020.9920

Date	Event	Notes/Comments	Evidence
		<i>that at the time of the withdrawal of the murder charge against DALE, material was being prepared in response to a further subpoena</i>	
44. 11 October 2011	Disclosure of notes (redacted)  Letter from VGSO to Tony Hargreaves advising Buick has collated, reviewed and redacted police notes and <ul style="list-style-type: none"><li>• Confirms all police notes in the matter have now been provided, and</li><li>• Contains explanation of redactions made by Buick</li></ul>		Letter (VGSO.3000.0316.0414) attached to email at VGSO.3000.0316.0406, also attaching redacted notes at VGSO.3000.0316.0409 and VGSO.3000.0316.0415
45. 11 October 2011	VGSO advise that the scope of what must be disclosed is not limited to notes about Witness F		Email, Jarrett to Buick, VP.L.6031.0015.8879
46. 19 October 2011	CDPP provides advice in relation to scope of disclosure obligations notwithstanding formal subpoena not being issued and attaches CDPP Prosecution Disclosure Policy		Email from Breckweg at VP.L.6031.0015.8290 at .8291
47. 17 October 2011	Disclosure of: <ul style="list-style-type: none"><li>• Redacted diary notes of Buick</li><li>• Redacted diary notes of J Lebusque</li><li>• Prior convictions of all witnesses</li></ul>		VGSO.3000.0316.0406 and VGSO.3000.0316.0124  Diary notes duplicated at VGSO.2000.1515.0139

	Date	Event	Notes/Comments	Evidence
48.	4 November 2011	CDPP provides list of types of documents that should be disclosed to Dale		Email from Breckweg to Buick and Sheridan VPL.6031.0016.9197 Also discussed in email from Breckweg to Graham Ashton on same date VPL.6031.0017.1157
49.	4 November 2011	Graham Ashton writes to Shane Kime (CDPP) to indicate Victoria Police's position that the committal on 7 November 2011 should only proceed on the charges that do not rely on the evidence of Witness F		VPL.6031.0017.1009
50.	7 November 2011	Committal proceeds on charges that do not rely on Gobbo's evidence		