

Brody McDonald
(CRN: 179425 – [REDACTED])
Barwon Prison Lara Vic 3212

7 October 2019

Royal Commission into the Management of Police Informants
PO Box 18028
MELBOURNE VIC 3001

Dear Commissioner,

I have not followed the events of the Royal Commission and the cases of other prisoners as I have my own problems in life. However, after 7 months of being held in solitary confinement I had the chance to talk with another prisoner, and I told him my Nicola Gobbo story. The other prisoner said that I should write to the Commission to ask if there is any information before the Commission about me and my matter.

On 1 May 2006, I was only 21 years old when I was arrested as a result of Operation Ovine for large commercial quantity of drug trafficking in amphetamines and cannabis and possession of firearms. Operation Ovine culminated in raids on 17 locations around Frankston, Hastings, Cranbourne and Seaford where I was living. A total of 33 people were arrested and charged with various drug and firearms offences (29 men and 4 women between the ages of 18 and 30). The police alleged that I was one of the principal offenders.

At the time, I felt overwhelmed by the situation in which I found myself, and the scale of the case against me. However in retrospect, the case against me was not as strong as I thought it was at the time; there was no directly incriminating evidence against me, just circumstantial evidence.

For the first 40 odd days of my custody I was kept in police cells all over the State because of overcrowding in the prison system. I was at a low point after almost 2 weeks in custody in the police cells when I was visited by Nicola Gobbo who introduced herself as a barrister and offered to represent me. I did not know Ms Gobbo and I did not ask any person to have a barrister visit me, Ms Gobbo appeared un-arranged. Ms Gobbo impressed me as a motivated person, and she

was the first person I saw after my arrest who was offering legal help to me, so I took Ms Gobbo at face value and I presumed that she was and would be acting in good faith and with my best interests at heart.

Ms Gobbo acted for me as my lawyer and she obtained the Brief of Evidence from the Police Informant who she advised me that she knew. I did not have a solicitor acting for me when Ms Gobbo was representing me.

I eventually spoke with the solicitor [REDACTED] through a family connection, but he advised me that if I was already with Ms Gobbo then she could represent me. I did not engage [REDACTED] as my solicitor, and I now cannot recall if I had a solicitor acting for me. The only person I ever had contact with was Ms Gobbo, and that contact, apart from being in Court, was only twice in person, once at the police cells and once at the Melbourne Remand Centre about a year before the Committal. Ms Gobbo spoke with my family members and received my instructions from them - I basically left it up to my family to deal with for me. Ms Gobbo seemed to impress upon everyone that she had a complete and overarching control of my matter to the exclusion of anyone else.

I did not see the Brief of Evidence in my matter until some time in October or November 2006 when I met one of my co-accused in custody. I then realised that I should have a copy of the Brief of Evidence myself, so I asked Ms Gobbo for a copy. I eventually received 2 large folds of documents, but I did not receive the disk that my co-accused had with the telephone intercepts, so I wrote to the Police Informant and asked for a copy of the disks which I eventually received. I discovered that there was only one telephone intercept that had my voice recorded on it, and I believe I had an explanation consistent with innocence for what I said on the call. But I never had the change to put that explanation.

I still have the copy of the Brief of Evidence in my matter which was provided to me by Ms Gobbo, and I can make that available to the Commission on request. I did not compare my copy of the Brief of Evidence with that of any co-accused in my matter as I had no reason at the time to suspect that Ms Gobbo was anything other than a lawyer acting in good faith and with my best interests at heart.

On the first visit to me in the police cells at the Custody Centre (the Commission could obtain that date in May 2006), Ms Gobbo asked me a few times in a conversational, "*one of the blokes*" type of way, if I knew Tony Mokbel and other people she named. I do not recall the names of the other people she was asking me about, but I may recall them if I heard the names again, one was a Greek named

man. I told Ms Gobbo I did not know or have any connection with Tony Mokbel, as that was the truth.

Ms Gobbo also asked me questions about matters, that if I had answered those questions, may have incriminated me or other persons. I did not answer these questions as I did not feel comfortable about them, I felt that Ms Gobbo was a person who wanted to "be in the know" and she was on the search for any bit of information or gossip she could get.

I recall that there were media reports that the police were suggesting that there may have been a link between me and the 33 other co-accused and the 17 locations, and Tony Mokbel. I still have those media clippings and I can make them available to the Commission on request.

There was a Committal Hearing in my matter and Ms Gobbo acted as my barrister. I was committed to trial [REDACTED] in the County Court for commercial quantity of drug trafficking in amphetamines and cannabis and possession of firearms.

I next saw Ms Gobbo at the first directions hearing in the County Court, and she advised me, that I was going to be found guilty if I took it to trial. And if I was found guilty I was looking at a sentence of 9 years with a minimum of 6 years. I was 22 years old at this time, and 9 years sounded like an awful long time to me. Ms Gobbo said there was sufficient evidence against me and the charges were serious, and I was not going to win, and that she had been in the room with the Police Informant and done a deal, and it is the best deal that could be on offer, and I should take the deal and I would be looking at much less of a sentence if I enter the plea. Ms Gobbo advised me, that for the charges to come down from large commercial quantity, skipping past commercial quantity, and landing at simple trafficking, was a deal that was too good for me to refuse. I did not ask Mr Gobbo to enter into talks about doing a deal for a guilty plea. Ms Gobbo pressed me for a decision about "the done deal" and I felt that she would not leave the room until I agreed, so I agreed as I did not feel as if I had much choice.

I was then taken up to the Court room and Ms Gobbo approached me and said the Police had agreed to the deal and she told me what charges to enter a guilty plea to. And that was that. There was 2 or 3 more days at Court, I did not speak with Ms Gobbo after she got my agreement to enter a plea of guilty, and then I was sentenced.

Now looking back on it, on the advice of Ms Gobbo I was given a choice: (A) run the 9 year risk and take to trial the charges of: commercial quantity of drug trafficking in amphetamines and cannabis and possession of firearms? Or (B) Enter a plea to a charge of trafficking in amphetamines and cannabis and get much less of a sentence? I was sentenced to 5½ years with a minimum of 3½ in November 2007. On the face of it I did alright, but that is only if it was really no change of an acquittal at trial.

I honestly believe that my entering a guilty plea had a cascade effect on my 33 co-accused, in retrospect it was as if my guilty plea acted as if it was the first card in a house of cards to be nudged out of place. And it was Ms Gobbo's finger that did the nudging.

Charges against all of my co-accused were reduced, some even received bail, and in the end only 2 of the 33 people arrested and charged did a sentence of imprisonment for the offences. In retrospect, the large and imposing case that the drug squad brought against 33 accused across 17 locations was a house of cards that could have been defended at trial. But I now feel as if I was effectively denied that opportunity to put a defence when I decided to fold on the advice of Ms Gobbo.

I am told, that just because I entered a guilty plea, this does not mean that I cannot lodge an out of time Appeal if it later comes to light that my guilty plea was the result of the undue influence of a defence lawyer who was in fact acting as an agent of the police who charged me with the offences that she was defending on my behalf.

If Ms Gobbo was in fact acting as an agent of Victoria Police in her representation of me so as to obtain information about Tony Mokbel or other persons, then the adversarial nature of the criminal justice system has been corrupted and debased. And that which has no base, cannot remain standing.

I now have a serious doubt as to if Ms Gobbo acted in good faith and with my best interests at heart. I have serious doubts as to if I should have entered a plea of guilty, even though it was a good deal and the charges were reduced a significant amount.

Action Requested of the Commission:

1. I ask the Commission to look at the informer contact reports and other documents in the possession of the Commission, for the period between 1 April 2006 (a month before my arrest) to November 2007, and see if:

- (a) Me or my matter is mentioned between Ms Gobbo and her police handlers in relation to her seeking information about Tony Mokbel or other persons; and

When I say 'my matter' it should be noted that the narrative focus of my matter was about drug trafficking at particular locations in Frankston, Hastings, Cranbourne and Seaford. There were media reports associated with my matter, that Tony Mokbel was implicated in a matter at Safety Beach.

- (b) Any of her police handlers were connected with Operation Ovine in any way; and
- (c) Any of the police that she had a personal relationship with, were connected with Operation Ovine in any way.

I have the names of some of the drug squad police from the Brief of Evidence which is still in my possession, but I would think the Commission could obtain the names of the police involved in Operation Ovine and very easily establish if there is any connection with Ms Gobbo and her activities as a police informer giving information on her clients to the police and my matter.

2. I ask the Commission to look at the results of the OPP database review by Mr J Champion SC, the Director of Public Prosecutions, and see if that review includes any mention of me and my matter.
3. I ask the Commission to look at the results of the Comrie Review in 2012, and see if it includes any mention of me and my matter.
4. I ask the Commission to look at the results of the Operation Loricæd in 2013, and see if it includes any mention of me and my matter.

5. I ask the Commission to look at the results of Operation Bendigo in 2014, and see if it includes any mention of me and my matter.
6. I ask the Commission to look at the Kelam IBAC Report in 2015, and see if it includes any mention of me and my matter.
7. I ask that the Commission disclose information to me as a result of the above.
8. I ask that the Commission provide copies of documents to me, so I can seek legal advice about my prospects of an appeal against my conviction.

The Victoria Police and the Director of the Office of Public Prosecutions are not going to disclose any information to me about corrupt conduct that may have debased the fundamental premisses of the criminal justice system in my case.

And in farness to the then Director of the Office of Public Prosecutions, it would not have been known at the time that Ms Gobbo:

- (a) Appeared un-arranged at the police cells soon after my arrest and offered to represent me; and
- (b) Took full control of my matter before and after I had a solicitor acting for me; and
- (c) Obtained the Brief of Evidence from the Police Informant; and
- (d) Had full control of the documents and the progress of my matter with little to no input by the solicitor; and
- (e) Negotiated the reduction of the charges and the plea deal without my instructions.

For me to seek legal advice as to if there has been a miscarriage of justice in my case and if I have a cause of action for an out of time appeal because of the conduct of Ms Gobbo, **justice and the rule of law dictates** that if there is information available then it should be released to me. Or do I, as an individual person need to start at the very beginning and battle Victoria Police in Court for 2 or 3 years with their failed Public Interest Immunity arguments, and their repeated request for more time to provide documents?

If it appears, *prima facie*, that there may have been corrupt conduct in my matter, I believe the Commission has a duty under law to tell me.

I look forward to your response.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Brody McDonald', written in a cursive style.

Brody McDonald.