



**COUNTY COURT OF VICTORIA**  
 250 William Street  
 MELBOURNE VIC 3000  
 DX 290078

Court Ref: CR-05-00585  
 CR-05-00623  
 CR-07-00065

IN THE COUNTY COURT  
 AT MELBOURNE  
 CRIMINAL DIVISION

**IN THE MATTER OF:**

**AN APPLICATION BY THE CHAIRPERSON OF THE ROYAL COMMISSION INTO  
 THE MANAGEMENT OF POLICE INFORMANTS**

**BETWEEN:**

**THE CHAIRPERSON OF THE ROYAL COMMISSION INTO  
 THE MANAGEMENT OF POLICE INFORMANTS**

**Applicant**

and

Mr Cooper

**First Respondent**

and

**DIRECTOR OF PUBLIC PROSECUTIONS**

**Second Respondent**

**BEFORE HIS HONOUR JUDGE MEREDITH**

## **VARIATION OF SUPPRESSION ORDER**

HOW OBTAINED:	By application made by the Royal Commission into the Management of Police Informants ('the Royal Commission') made on 29 October 2019.
TYPE OF ORDER:	Variation of a suppression order pursuant to s 15 of the Open Courts Act 2013, alternatively, the inherent jurisdiction of the Court.
PURPOSE OF ORDER:	To preserve the suppression orders made by his Honour Judge [REDACTED] on [REDACTED] February 2007, [REDACTED] February 2007, 2 July 2007, but allow access, use and disclosure of materials in relation to this matter to and by the Royal Commission for the purposes of the Royal Commission's inquiry and calling the first respondent as a witness at a hearing or hearings of the Royal Commission.

OTHER MATTERS:

This document has been redacted for Public Interest

On February 2007, his Honour Judge [redacted] made both a closed court order and a suppression order. Police related to this matter. The order closed the Court for the whole of the proceedings. The order also ordered that there be no publication of the proceedings.

On February 2007, his Honour Judge [redacted] made a variation of the suppression order of 8 February 2007 to allow two additional persons to attend the proceedings in closed court.

On 2 July 2007, his Honour Judge [redacted] made a variation to his suppression order of February 2007 to allow edited transcripts of the plea hearing and sentence to be published to defence counsel for the first respondent and another person, to assist counsel to prepare their clients for the giving of evidence as witnesses. Publication beyond this was prohibited.

On 22 July 2019, his Honour Chief Judge Kidd made a variation to the suppression order of February 2007 to allow limited access to materials in relation to this matter to Counsel Assisting the Royal Commission.

On 26 August 2019, his Honour Chief Judge Kidd made a variation to the abovementioned orders of February 2007 and 22 July 2019 to allow limited access to materials in relation to this matter to Counsel Assisting the Royal Commission and the Commissioner.

On 29 October 2019, the Commissioner of the Royal Commission applied for a further variation of the abovementioned orders to allow access, use and disclosure of materials in relation to this matter to and by the Royal Commission for the purposes of the Royal Commission's inquiry and adducing evidence from the first respondent at a hearing or hearings of the Royal Commission at which the first respondent is called as a witness. The application was made on the basis that:

- (a) The Royal Commission will conduct any hearings at which the first respondent is called as a witness in closed session pursuant to orders that are intended to be made at the commencement of the hearing under s 24 of the *Inquiries Act 2014*, which will have the effect of excluding any and all persons from the proceeding other than:
  - i. Counsel Assisting and Solicitors Assisting the Royal Commission, and any clerical or technical staff members of the Royal Commission whose presence is necessary for the practical conduct of the hearing;
  - ii. Interested parties granted leave to appear by the Royal Commission;
  - iii. Media personnel accredited by the Royal Commission; and
- (b) The Royal Commission will also make an order, at the commencement of the evidence of the first respondent, pursuant to s 26(1)(b) of the *Inquiries Act 2014*, prohibiting the publication of any information or evidence given to the Royal Commission in the course of the first respondent's evidence as a witness, which order will remain in place until further order.

The first respondent was represented by his counsel and consents to the orders sought by the Royal Commission.

BY VARIATION OF THE ORDERS OF JUDGE [redacted] ON FEBRUARY 2007, AND CHIEF JUDGE KIDD ON 22 JULY 2019 AND 26 AUGUST 2019, THE COURT ORDERS THAT:

- (1) The orders of Judge [redacted] on February 2008, and Chief Judge Kidd on 22 July 2019 and 26 August 2019 do not prevent access, use and disclosure to or by the Royal Commission into the

Management of Police Informants (including its Counsel Assisting and Solicitors Assisting, and its staff) of the documents described in the schedule and the information contained in those documents for the purposes of:

- a. the internal work of the Commission; and
  - b. adducing evidence (including cross examination by any parties with leave) from the first respondent in a hearing or hearings of the Royal Commission during which the first respondent will be called as a witness, subject to orders being made by the Royal Commission under:
    - i. Section 24 of the Inquiries Act 2014 for a closed session; and
    - ii. Section 26(1)(b) of the Inquiries Act 2014 for non-publication in the terms set out and annexed hereto and not otherwise.
- (2) Legal representatives for the first respondent be provided with copies of the documents described in the schedule for the purposes of:
- a. Providing legal advice to the first respondent;
  - b. Adducing evidence from the first respondent in a hearing or hearings of the Royal Commission during which the first respondent will be called as a witness
- on the condition that the documents and the information contained in those documents are not disclosed to any other person, including the first respondent.
- (3) The confidential affidavit of Howard Roger Rapke of 29 October 2019 and its exhibits together with any recording made of this proceeding on 30 October 2019 be held securely by the applicant until further order.

#### SCHEDULE OF DOCUMENTS

- (a) Presentment 00605093 — Certified on [REDACTED] February 2007;
- (b) Record of orders of sentence of [REDACTED] February 2007;
- (c) Transcript of sentencing remarks of Judge [REDACTED] delivered on [REDACTED] February 2007;
- (d) Transcript of the plea hearing in February 2007, together with the exhibits tendered on the plea.

DATED the 30<sup>th</sup> day of October 2019

HIS HONOUR JUDGE MEREDITH