

ROYAL COMMISSION INTO THE MANAGEMENT OF POLICE INFORMANTS

STATEMENT OF GAVIN SILBERT QC

1. My full name is Gavin Joseph Cohen Silbert.
2. I make this statement in response to a request from the Royal Commission into the Management of Police Informants dated 24 March 2020.

Professional background

3. I am a Barrister, having signed the Bar roll on 1 October 1985. Between 1985 and 1990 I was a prosecutor for the Queen for the State of Victoria and conducted Supreme and County Court trials. In 1990 I returned to the Bar where I practised in criminal law doing both prosecution and defence, as well as administrative and commercial law. I was appointed Silk on 28 November 2007. In 2008 I was appointed as the Chief Crown Prosecutor of Victoria. On 6 March 2018 I retired as Chief Crown Prosecutor and returned to the Bar.

Hearing on 1 March 2005

4. On 1 March 2005 I appeared before Chief Magistrate Gray on behalf of the Chief Commissioner of Police. I was briefed by the Victorian Government Solicitor's Office (VGSO). I have no written notes or records of my appearance before the Chief Magistrate, other than my entry in my fee book for an appearance on that date in a matter described as 'Kerley v Williams' for which my fee was \$990.00. I have no independent memory of the matter and can only draw inferences from the transcript of the hearing that was provided to me by the Commission on 24 March 2020.¹
5. My fee book shows that I was briefed in many matters by the VGSO around that time to deal with claims of public interest immunity (PII) on behalf of members of Victoria Police.
6. It appears from the transcript of 1 March 2005 that I was briefed to claim PII in order to redact the name of the informer and anything which could tend to identify the informer. It appears that the method of seeking a ruling on the claim was to provide the Chief Magistrate with a redacted and an unredacted form of the then Detective Senior Constable Stuart Bateson's day book notes.

¹ Transcript of Proceedings, The Police v Carl Williams, Mr Andrews and Mr Thomas (Magistrates' Court of Victoria, Chief Magistrate Gray, 1 March 2005).

7. I announced my appearance just before lunch² and the matter then adjourned for lunch, resuming at 2.07pm.³
8. During the luncheon adjournment, Mr Bateson edited his day book notes.⁴ After the luncheon adjournment, I advised the Chief Magistrate that Mr Bateson had not completed the task.⁵ The Chief Magistrate then agreed to hold the matter over until the following morning when he would be in a position to compare the redacted and unredacted versions of Mr Bateson's notes to enable him to rule on the claim for informer privilege.⁶
9. I was excused at that stage and a solicitor from the VGSO appeared to complete the task of handing the material to the Court.
10. Although I have no independent memory of the matter, having read the relevant extracts of the transcript, I am satisfied that I never sighted Mr Bateson's day book notes in unredacted form.
11. I was not aware that Victoria Police were seeking to exclude Ms Gobbo's name from disclosure to the defence. Further, I do not recall any mention of Ms Gobbo in connection with the informer's name that was sought to be suppressed.
12. At the time that I was briefed to appear on behalf of the Chief Commissioner of Police, I was not provided with Mr Bateson's day book of 10 and 11 July 2004. I consider that I should have been provided with those notes to properly consider the propriety of the claim for PII.

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13. I am confident that I was not aware that Ms Gobbo acted for ██████████ as she appeared as junior counsel to Mr Colin Lovitt QC for ██████████ in the proceeding and I would not have countenanced such an obvious conflict of interest.

14. I was not aware of the draft statement of ██████████ and should have been provided with such a statement (as should the prosecutor who bore duties of disclosure) in order to evaluate the propriety of the claim for PII.

² Transcript of Proceedings, The Police v Carl Williams **Mr Andrews** and ██████████ (Magistrates' Court of Victoria, Chief Magistrate Gray, 1 March 2005) 35 [15] (Mr Gavin Silbert)

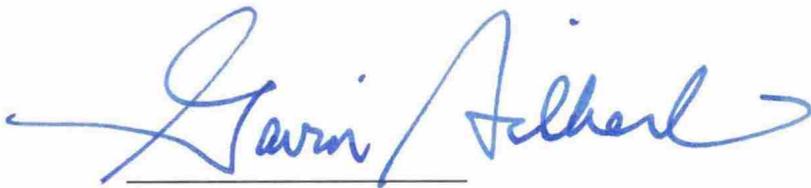
³ Transcript of Proceedings, The Police v Carl Williams **Mr Andrews** and ██████████ (Magistrates' Court of Victoria, Chief Magistrate Gray, 1 March 2005) 39 [1] (Mr Gavin Silbert)

⁴ Transcript of Proceedings, The Police v Carl Williams **Mr Andrews** and ██████████ (Magistrates' Court of Victoria, Chief Magistrate Gray, 1 March 2005) 40-41 (Mr Gavin Silbert)

⁵ Transcript of Proceedings, The Police v Carl Williams **Mr Andrews** and ██████████ (Magistrates' Court of Victoria, Chief Magistrate Gray, 1 March 2005) 48 [12]-[18] (Mr Gavin Silbert)

⁶ Transcript of Proceedings, The Police v Carl Williams **Mr Andrews** and ██████████ (Magistrates' Court of Victoria, Chief Magistrate Gray, 1 March 2005) 49 [17]-[20] (Mr Gavin Silbert)

15. I would not have acted for the Chief Commissioner of Police in the claim for PII had I been aware that Ms Gobbo acted, or had acted, for **Mr McGrath** as the principal witness in the informant's case.



Gavin Silbert QC

List F



1 April 2020