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6 November 2019

**By email:** [PII]  
Mr Howard Rapke  
Solicitors Assisting the Royal Commission  
into the Management of Police Informants  
PO Box 18028  
MELBOURNE VIC 3001

Contact  
Daniel Marquet (03) [PII]  
Email: [PII]

Dear Mr Rapke

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

We refer to your correspondence regarding Victoria Police's disclosure of materials to individuals that are or have been potentially affected by the actions of Ms Gobbo that are the subject of the Royal Commission's inquiries (**Potentially Affected Persons**).

The purpose of this letter is to:

- enquire as to the Royal Commission's position with reference to the total number of individuals that are Potentially Affected Persons;
- outline Victoria Police's methodology and current progress in compiling and disclosing materials to Potentially Affected Persons and to the Royal Commission;
- outline Victoria Police's position in relation to production to the Royal Commission of disclosure materials relating to Potentially Affected Persons whose cases are currently before the Court of Appeal; and
- respond to the Royal Commission's queries relating to Victoria's Police's production of "disclosure assessment reports" to the OPP.

Our responses are outlined in full below.

### **1 Total number of Potentially Affected Persons**

- 1.1 As explained below, Victoria Police has a list identifying a total of 878 Potentially Affected Persons, based on information received from the Royal Commission, the OPP and the CDPP.
- 1.2 We understand that the Royal Commission has been undertaking a process of considering the total number of individuals that are Potentially Affected Persons and might have already formed some views, about those, in particular, who it does not consider to be Potentially Affected Persons.

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- 1.3 In order for Victoria Police to more effectively prioritise disclosures to Potentially Affected Persons, and to assist the Royal Commission in its work, we respectfully request that the Royal Commission provide us with:
- (a) a list of individuals that it considers to be Potentially Affected Persons;
  - (b) a list of any individuals that it currently considers not to be Potentially Affected Persons; and
  - (c) further information concerning the Royal Commission's methodology in assessing whether any particular individual is or is not a Potentially Affected Person.
- 1.4 With this information Victoria Police will be better equipped to allocate and prioritise its resources towards effecting disclosure to Potentially Affected Persons identified by the Royal Commission.

## 2 Methodology and progress reviewing material relating to Potentially Affected Persons

- 2.1 As you are aware, Victoria Police has allocated significant resources to identifying and compiling material relevant to the issue of Ms Gobbo's connection with criminal proceedings against 878 Potentially Affected Persons. We provide below a summary of Victoria Police's methodology and progress compiling and disclosing materials relating to the Potentially Affected Persons.

### Methodology of compiling materials relating to Potentially Affected Persons

- 2.2 Victoria Police has compiled its documents relating to the management of Nicola Gobbo as a human source between 2005 and 2009 into the Loricated database. Victoria Police intends to conduct searches of the Loricated database in relation to each of the relevant Potentially Affected Persons and produce to the relevant prosecuting authority a 'Summary of Extracts' (**SOE**) where the search produces positive results. For those Potentially Affected Persons of the highest priority (as discussed and defined below), a corresponding package of source documents from the Loricated database has also been produced (**Package**).
- 2.3 Where the search reveals no hits for the person in the Loricated database, Victoria Police will provide the prosecuting authority with a 'Nil Hits' or a 'Nil Value' report.
- 2.4 By way of explanation, the SOE is a compilation of extracts of ICRs relating to Potentially Affected Persons, including date, ICR number and references to other relevant supporting materials from Victoria Police's Loricated database. The Package is a compilation of the original source materials, such as diary entries, transcripts and Information Reports (**IRs**) that are referred to in the relevant SOE. 16 Packages were produced and are being disclosed in tranches to all Priority 1 and 2 Potentially Affected Persons and several Priority 3 to 6 Potentially Affected Persons (as defined below).

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- 2.5 SOEs and Packages are redacted for relevance, public interest immunity (**PII**) and compliance with other statutory restrictions on production. Where necessary, pseudonyms are applied consistently with those used in the Royal Commission. When completed and appropriately redacted, Victoria Police provides SOEs and Packages to the OPP or CDPP, as appropriate, to facilitate disclosure to Potentially Affected Persons or their legal representatives.
- 2.6 Given the large number of Potentially Affected Persons, Victoria Police has prioritised its review of Potentially Affected Persons' SOEs and Packages with reference to certain 'Priority Factors'. Victoria Police has formulated the Priority Factors in order to comply with comments of the Victorian Court of Appeal in *Mokbel v DPP (Cth) and DPP (Vic)* and *Cvetanovski v R* to the effect that disclosure to Potentially Affected Persons with matters before the Court must be given "top priority".<sup>1</sup>
- 2.7 The Priority Factors are:

Priority	Priority Factor
1	Potentially Affected Person is the subject of current Court proceedings relating to a matter in which they were represented by Ms Gobbo
2	Potentially Affected Person is currently incarcerated in respect of a matter in which they were represented by Ms Gobbo
3	Potentially Affected Person is currently incarcerated for other matters
4	Potentially Affected Person (not incarcerated) has requested production of disclosure materials
5	Royal Commission has requested production of disclosure materials relating to Potentially Affected Person
6	Other (Potentially Affected Person not subject to any other Priority Factor)
7	Potentially Affected Person: <ul style="list-style-type: none"> <li>• is deceased;</li> <li>• has been convicted only of a summary offence in the Magistrates' Court of Victoria; or</li> <li>• was not represented by Ms Gobbo (and Victoria Police is waiting for more information to be provided by the Royal Commission in relation to the level of disclosure expected).</li> </ul>

<sup>1</sup> *Mokbel v DPP (Cth) and DPP (Vic)* S APCR 2017 0251; *Cvetanovski v R* S APCR 2017 0199, 2017 0200, 2017 0201, 2018 0279.

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- 2.8 The process of identifying and compiling materials to create a SOE in respect of each Potentially Affected Person (and where produced, a Package) involves the following three stages:
- (a) **Stage 1:** Victoria Police conducts a search on its LEAP database to determine variations in spelling, known aliases and nicknames of the Potentially Affected Person. The Loricated database and transcripts of meetings are then searched for references to the Potentially Affected Person using that information. Where this search produces no results relating to the Potentially Affected Person, Victoria Police generates a 'Nil Hit' report which is provided to the OPP or CDPP as appropriate (and Victoria Police does not undertake Stage 2 or the Ringtail Review in respect of that Potentially Affected Person).
  - (b) **Stage 2:** By reference to the search conducted in Stage 1, Victoria Police prepares the SOE by identifying and copying relevant ICR entries into the SOE table, and noting whether there are supporting documents such as transcripts, diaries and IRs. With respect to some Potentially Affected Persons, whilst the search results of Stage 1 produce hits apparently relating to the Person, these may be false positives. For example, the Person's name or surname may be the same or similar to another person's name or to another word appearing in the database. Where no hits can be attributed to the Person in question, Victoria Police produces a 'Nil hit' report, which is provided to the OPP or CDPP as appropriate.  
  
With respect to some Potentially Affected Persons, whilst the search results of Stage 1 produce hits apparently relating to the Person, these may appear in a context which makes it difficult to identify whether the search result relates to a Potentially Affected Person or other person. For example, a reference to the Person's first name but no surname. Where no hits can be directly attributed to the Person in question, Victoria Police produces a 'Nil value' report, which is provided to the OPP or CDPP as appropriate.  
  
In these instances, a manual exercise is undertaken to assess whether each search result relates to the particular Person being considered. This can be a time consuming process where the name is common or where close reading of the context of the reference is required to ascertain who the hit relates to.
  - (c) **Review and Production Stage:** The SOE (and Package, where produced) is uploaded to the Victoria Police Ringtail database, where it is redacted for relevance and PII, as necessary.
- 2.9 Following completion of SOEs and Packages (where produced) in accordance with the above methodology, Victoria Police's redactions for claims of relevance and PII are reviewed by the VGSO and counsel for the Chief Commissioner

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before the materials are produced to the OPP or CDPP for disclosure to Potentially Affected Persons. In order to expedite disclosure to some Potentially Affected Persons, or to meet external deadlines, in some instances where Packages were produced, Victoria Police disclosed SOEs prior to disclosing the Packages.

- 2.10 Where necessary, Victoria Police will also consider material outside of the Loricated database and disclose, as appropriate, to the relevant prosecuting authority.

**Progress of disclosures to Potentially Affected Persons**

We attach at **Attachment 1** a table outlining Victoria Police's progress in compiling and disclosing materials to Potentially Affected Persons with reference to the above Priority Factors and Stages.

**Production of SOEs in respect of certain Potentially Affected Persons identified by the Royal Commission**

- 2.11 You have requested an update as to Victoria Police's production to the Royal Commission of SOEs in respect of 41 Potentially Affected Individuals identified by the Royal Commission.
- 2.12 We provide an update as to the status of disclosures to these Potentially Affected Individuals in the table at **Attachment 2**.
- 2.13 For completeness, we note that on 1 August 2019 we also produced to the Royal Commission SOEs in respect of the following Potentially Affected Persons: Milad Mokbel, John Higgs, Carmelo Falanga, Giovanni Polimeni, Pino Varallo, David Ilic, Rocco Arico, Joseph Parisi, Wayne Finn, Evangelous Goussis and Craig Greenslade.
- 2.14 Further, as you will see from **Attachment 1**, of the 112 Stage 2 Completed reviews, more than 50 of the SOEs have been produced to the Royal Commission. The balance of these SOEs are currently being prepared for production to the Royal Commission.

**3 Disclosure to Potentially Affected Persons with cases currently before the Court of Appeal**

- 3.1 At this stage, Victoria Police is aware of the following Potentially Affected Persons with cases currently before the Court of Appeal:
- (a) Antonios Mokbel;
  - (b) Zlate Cvetanovski;
  - (c) Rabie Karam; and
  - (d) Jan Visser.



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- 3.2 For clarity, we confirm that these individuals are the Priority 1 Potentially Affected Persons. We also confirm that Farouk Orman was formerly a Priority 1 Potentially Affected Person during the course of his proceedings before the Court of Appeal.
- 3.3 As you are aware, the Court of Appeal indicated in *AB v CD & EF* that it would be appropriate for Victoria Police to provide more comprehensive disclosure materials to Potentially Affected Persons with cases before the Court concerning Ms Gobbo's connection to their convictions.<sup>2</sup> Accordingly, disclosure to these Potentially Affected Persons was treated by Victoria Police as a top priority.
- 3.4 Victoria Police prioritised completion of review and production of SOEs and Packages in respect of these individuals ahead of all other Potentially Affected Persons. As a result, Victoria Police diverted resources from other Potentially Affected Persons to these Priority 1 Potentially Affected Persons.
- 3.5 SOEs and Packages are being produced to the Priority 1 Potentially Affected Persons with appropriate relevance and PII redactions, in tranches. We confirm that Victoria Police will produce to the Royal Commission disclosure materials relating to Priority 1 Potentially Affected Persons, after Victoria Police has finalised and disclosed SOEs and Packages for those Persons to the relevant prosecution authorities and/or the Court.
- 3.6 Over and above the SOEs and Packages, Victoria Police is also compiling and producing further material relevant to particular Potentially Affected Persons, including material responsive to orders made by the Court of Appeal pursuant to section 317 of the *Criminal Procedure Act 2009*. As above, Victoria Police will ensure that all relevant disclosed material is also produced to the Royal Commission.

**4 Production of 'disclosure assessment reports'**

- 4.1 In an email from Ms Alana Giles to Mr John Fogarty of our offices on 3 September 2019, the Royal Commission posed a number of queries relating to "disclosure assessment reports" and "analysis reports" that had been produced by Victoria Police to the OPP.
- 4.2 By way of background, in November 2018, the OPP requested assistance from Victoria Police in identifying and assessing 49 Potentially Affected Persons. Victoria Police provided assistance by conducting searches of the Loricated database relating to those Persons and producing to the OPP reports in response to the questions asked in respect of the 49 Potentially Affected Persons. Victoria Police understands these reports to be the 'disclosure assessment reports' to which you refer.
- 4.3 Victoria Police produced 49 disclosure assessment reports to the OPP between February and April 2019. Victoria Police prepared disclosure assessment reports only in respect of the 49 Potentially Affected Persons identified by the OPP; in

<sup>2</sup> *AB v CD & EF* [2017] VSCA 338

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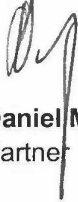
respect of other Potentially Affected Persons Victoria Police is preparing SOEs (as explained in paragraphs 2.2 to 2.9 above).

- 4.4 We are instructed that on or around 3 April 2019, our client disclosed at least 38 of the 49 disclosure assessment reports to the Royal Commission. We are currently conducting a review of the production of the remaining disclosure assessment reports — any outstanding disclosure assessment reports that have not been produced to the Royal Commission will be produced as soon as possible.
- 4.5 We note that Ms Giles' email refers to and requests an explanation of "analysis reports". Our client is not aware of what is meant by an analysis report; however, it might be that this is simply a different name used at some stage for the disclosure assessment report. We would be happy to provide further information to the Royal Commission with further clarification.

Victoria Police remains committed to working cooperatively and collaboratively with the Royal Commission in relation to these matters and would welcome the opportunity to meet with you to further discuss progress in relation to responding to Term of Reference One.

Yours faithfully

**Corrs Chambers Westgarth**



**Daniel Marquet**  
Partner

## Attachment 1 — Status of Compiling and Disclosing materials to Potentially Affected Persons

Priority	Priority Factor	Number of POIs	Stage 1 Completed	Stage 2 Completed	Service			
					RC - SOE	RC - Package	POI - SOE	POI - Package
1	Potentially Affected Person is the subject of current Court proceedings relating to a matter in which they were represented by Nicola Gobbo	5	5	5	4	4	5	5
2	Potentially Affected Person is currently incarcerated in respect of a matter in which they were represented by Nicola Gobbo	3	3	3	3	3	1	1
3	Potentially Affected Person is currently incarcerated for other matters	46	46	39	16	13	9	6
4	Potentially Affected Person (not incarcerated) has requested production of disclosure materials	32	32	24	11	10	4	2
5	Royal Commission has requested production of disclosure materials relating to Potentially Affected Person	13	13	5	0	0	0	0
6	Other (Potentially Affected Person not subject to any other Priority Factor)	464	324	41	20	20	5	4
7	Potentially Affected Person: • is deceased; • has been convicted only of a summary offence in the Magistrates' Court of Victoria; or • was not represented by Ms Gobbo (and Victoria Police is waiting for more information to be provided by the Royal Commission in relation to the level of disclosure expected).	315	43	8	3	3	0	0
		878	466	125	57	53	24	18



**Attachment 2 — Disclosure to Potentially Affected Persons  
identified by the Royal Commission in its letter to Corrs  
dated 29 July 2019**

Potentially Affected Person	Status of SOE	Priority
ABRAHAM, Joseph	Stage 2 in progress	3
AITKEN, Adam Andrew	Stage 2 completed	5
ALI, Ahmed	Stage 2 completed	4
BELOT, Kane Terrance	Nil hit report being prepared	3
BRADLEY, Craig	Stage 2 completed	3
CULPH, Hayden Albert	Nil value report being prepared	5
DEBS, Bandali Michael	Stage 2 completed	3
DI PIETRO, Antonino	Stage 2 completed	4
DUONG, Chi Kim	Nil hit report being prepared	4
EL-AZAR, Elia Ghassan	Nil hit report being prepared	3
FELSINGER, Shane	Nil value report being prepared	7
GAVAZOVSKI, Albert	Nil value report being prepared	3
GIRI, Jason James	Nil value report being prepared	3
GOUSSIS, Evangelous	Disclosed	3
HADDAD, Daniel	Stage 2 completed	4
Mr McGrath	Stage 2 in progress	5
HORIN, David	Stage 2 in progress	7
HOWARTH, Brett Leslie	Nil value report being prepared	5
JACKSON, Darren	Stage 2 in progress	4
JONES, Trent Nathan	Nil value report being prepared	4
KACHAB, Rimond	Stage 2 in progress	7
KARAM, Pierre	Stage 2 completed	5
KECA, Michael	Nil value report being prepared	4
KHODER, Kamel	Stage 2 completed	4
KHODER, Omar	Nil value report being prepared	3
KURNAZ, Ibrahim	Stage 2 completed	4

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Potentially Affected Person	Status of SOE	Priority
LABROOY, Shane	Nil value report being prepared	3
MOKBEL, Milad	Disclosed	4
NGO, Duc	Nil value report being prepared	5
ORFANIDIS, Christopher	Stage 2 completed	3
Mr Cooper	Disclosed	4
SARIS, Tom	Nil hit report being prepared	3
SCARPONI, Severino	Nil value report being prepared	3
SEMAAN, Sarkis	Nil hit report being prepared	5
SMITH, Ronald Steven Leslie	Stage 2 in progress	5
SONNET, Sean	Stage 2 in progress	3
TANLER, Vince	Stage 2 in progress	5
TIBA, Mohamed	Nil value report being prepared	3
TRAN, Ky Boi	Nil value report being prepared	3
ZAMMIT, David	Stage 2 in progress	3