

Statement for Royal Commission into the Management of Police Informants

1. My name is Brian Hardiman.
2. I make this statement in response to a written request from the Royal Commission into the Management of Police Informants, dated 12 June 2019
3. I am giving this statement to the best of my recollection in the absence of my official diaries and notes.
4. My Education Qualifications and work background are as follows:
 - Matriculation Certificate 1969;
 - Monash University 1970 – July 1971 BA discontinued;
 - Appointed Base Grade (E class) Clerk, Chief Secretary's Office. (Responsible amongst other things for Police and Emergency Services) August 1971;
 - Personal Assistant to newly appointed permanent head of the new Ministry for Police and Emergency Services, 1979;
 - Executive Officer (Administration) and Registrar of Private Agents in the Ministry for Police and Emergency Services, 1983;
 - Secondment as an investigator to the newly created Police Complaints Authority, 1986 – 1988;
 - Investigator at the Office of the Ombudsman following its assumption of the role of the Police Complaints Authority, May 1988;
 - Senior Assistant Ombudsman (Police) on a 5 Year Contract, May 2001;
 - Deputy Ombudsman (Police Complaints) following Ombudsman Dr. Barry Perry's stroke on 25 April 2003 until appointment of George Brouwer as Ombudsman, March 2004;
 - Deputy Police Ombudsman (EO2) under new expanded Police Ombudsman Legislation, June 2004;
 - Deputy Director Police Integrity following establishment of OPI, November 2004;
 - Special Project Director, (EO2) in OPI for the period 1 January 2006 to my 55th Birthday on 18 March 2007 on the basis that I took continuous recreation and long service leave at half pay from May 2006;
 - During the above period my primary task was to research and write, together with ex Assistant Commissioner Bill Robertson, Chief Inspector Ralph Staveley and Inspector Richard Watkins, a history of Victoria Police Corruption which was published in February 2007. The Parliamentary Report number 4 was entitled Past Patterns - Future Directions Victoria Police and the problem of corruption and serious misconduct.
 - Awarded PSM Australia Day Honours, 2006, for services to the Ombudsman.
 - I officially retired 18 March 2007.
5. My first recollection of discussion with police about the ethics of the use of lawyers as informers/to provide investigative assistance was with Steve Fontana in the early 2000s during Operation CEJA.

6. Barrister Alan Swanwick had played a major role in bringing to ESD attention, concerns about the involvement of his client ^{P3} _____, with the then Drug Squad. However, Steve Fontana had become concerned that some of Swanwick's inquiries, although well intentioned, were not known to, or necessarily in the best interests of his client.
7. I agreed that Steve Fontana should speak to Swanwick about lawyer/client boundaries.
8. My first recollection of hearing about Nicola Gobbo was from a police Information Report about a relationship between her and Paul Dale at her home at Port Melbourne during CEJA.
9. Subsequently Steve Fontana spoke to me about a proposal to use Gobbo as an informer. I believe this might have been discussed by Police Command but was outright rejected by Fontana on ethical grounds and the fact that she was unreliable. I agreed with Fontana.
10. I recall having a discussion with Peter De Santo and Steve Fontana about an approach by Tony Mokbel to _____ I agreed with De Santo and Fontana that Mokbel's involvement, particularly his motivations – would most likely jeopardise current and ongoing investigations. From my perspective, the CEJA investigation was a very honest diligently conducted investigation. The use of informers was restricted to a minimum in favour of obtaining "hard evidence". CEJA's investigative methodology and approach is explained in detail in the third and final CEJA report of July 2007.
11. I do not recall any discussion of Nicola Gobbo's involvement in Mokbel's approach.
12. I have recollection of mention of Nicola Gobbo by a confidential source, the late ^{Raj Chandra} _____ _{Raj Chandra} who was also a long term "informer" to police (particularly Detective Sergeant Steve Campbell of the Armed Offenders Squad).
13. When Commission staff were going through material they found an entry in my Day Book for Wednesday 06 October 2004 (COM.0055.001.0012). This entry indicates that I had received information from a reliable informer that "M" (Mokbel) was having an affair with Nicola Gobbo in an apartment in the City.
14. ^{Raj Chandra} _____ _{Raj Chandra} may have made other references to Nicola Gobbo, but without my diaries and files, I am somewhat confused now with references he also made to Zarah Garde – Wilson. He also suggested he was having an affair with a commercial lawyer who he told me was an acquaintance of Gobbo. To my dismay I encountered ^{Raj Chandra} _____ _{Raj Chandra} leaving this woman's home at _____ Thornbury very close by my own in around 2006 about the time I had gone on leave from OPI. I don't know the name of this woman. ^{Raj Chandra} _____ _{Raj Chandra} was also a friend of this woman's _____ _{Raj Chandra} husband. _____ _{Raj Chandra} (since sold and demolished) at the time of my encounter.
15. In 2005/2006 I arranged for Greg Carroll of OPI to meet and interview ^{Raj Chandra} _____ _{Raj Chandra} about any observations or knowledge he had of meetings between Tony Mokbel and Paul Dale or other Police – particularly at a named hotel. The meeting was in a car park at a reserve in Brunswick. My recollection is that ^{Raj Chandra} _____ _{Raj Chandra} said he did not know of any such contact and

explained to Greg Carroll, as he had previously explained to me, that he had only met once with Tony Mokbel. [REDACTED]

[REDACTED] I believed that Greg required this information in connection with his active oversight of the Hodsons murder investigation.

16. Commission staff have found an entry in my Daybook for Sunday 28 September 2003 (COM.0055.001.0001) indicating that I was told of the Dublin Street burglary involving member David Miechel and Terry Hodson the previous day.
17. There was concern for Terry Hodson's safety from the time he was arrested on 27 September 2003.
18. I have an entry in my Daybook located by Commission staff for Friday 21 November 2003 (COM.0055.001.0008) "1700 - Off Duty - Car home - On Call re Miechel/Hodgson ". I believe this entry relates to making myself immediately available over the weekend in case David Miechel and/or Terry Hodson wished to talk to me personally. CEJA members had advised them of their right to make any confidential complaint/raise any issue with me - particularly witness security in the case of Terry Hodson and his family.
19. I specifically requested in early 2004 that Sergeant George Tapai again advise Hodson of his right to talk to me on a strictly confidential basis as Deputy Ombudsman about any security or other concerns he might have. I believe Tapai did so in early 2004, when taking a statement at my request from Terry Hodson. As I recall, this statement was about an alleged theft of expensive South African wine by the Drug Squad from a younger associate of Hodson's, Jason Rodda of East Ivanhoe. My recollection is that Hodson boasted in this statement as to how he had informed on his "friend" Rodda to police.
20. As my official diaries and any relevant notes have not been located, I cannot be sure of the precise date. However, by reference to other matters I was working on, and a process of elimination I believe that on or about Friday 27 February 2004 in the late afternoon, Terry Hodson arrived unannounced at reception at the Office of the Ombudsman. The office was then located on the 17th Floor North Tower at 459 Collins St, Melbourne. At the time I believe I was following up with a police member, a possible connection between former member Brad Ferguson and NSW Police Integrity Commission witness [REDACTED]. I had attended with CEJA members a Police Integrity Commission hearing in Sydney the previous week.
21. I have an appointment diary entry for Monday 23 February 2004 of a meeting at CEJA to investigate this connection which ultimately resulted in charges and convictions against former police members and a civilian. In order to avoid Hodson encountering this member, I arranged for the receptionist to take him to an interview room and to assist the police member to leave the conference room where we had been working.

I proceeded to the interview room expecting to talk to Hodson about his and his family's security and safety. However, he launched straight into telling me that "I am just here at Nicola 's suggestion to put a proposition to you".
22. He then went on to say "Nicola says that when you're walking on a tight rope the only way to maintain your balance / stop from falling is to play both sides against the middle." I

thought he was talking about his daughter Nicola at this stage because I knew from another investigation that she was a personal trainer at a gym. I said something to the effect that our primary interest was his and his family's safety. He said he wasn't interested in witness protection and that if he was out and about, he could get more information on crooks and corrupt police. He said that Nicola had told him that the going rate for a substantial reward was \$1,000,000 and I thought he said that she thought that \$4,000,000 being 1 million for him and his wife and a million each for his three children would be a fair insurance policy/safety net.

23. However, on reflection I believe he is more likely to have said that he and his wife and three children would share \$1 million dollars four ways. But being surprised by this proposition, I asked "Nicola your daughter suggested this?" He replied, "No, Nicola Gobbo!"
24. I repeated that his and his family's security was our paramount concern and that if that required the expenditure of large amounts of money that was one thing. I said I was more than prepared to consider a range of witness protection measures including outside of Victoria Police. I also told him that acting as some sort of freelance informer/ agent provocateur was out of the question and would undoubtedly jeopardise the cases against Dale and Miechel. He was somewhat crestfallen at this stage and I reiterated that he needed to seriously consider some form of witness protection for his and his family's sake. I invited him, his family or Nicola Gobbo to contact me to further discuss possible options further so that they could make a fully informed decision as I had already initiated steps to move away from the "one size fits all" Victoria Police approach to witness protection. He requested that I not tell police of his visit. I agreed .
25. The conversation lasted twenty minutes at most. I asked him to wait a couple of minutes while I finalised a matter - to ensure he would not encounter the police member I had previously been talking to. I verified that he had left about 15 minutes earlier.
26. I have no recollection of any further contact with Terry Hodson, his family or Nicola Gobbo. However, I note that in the introduction to the 2005 OPI Witsec report to Parliament that it is stated "By their own choice neither of the Hodson's had been participants in Victoria's Witness Protection Program, a fact overlooked in much of the media reporting of their murders." The clear implication is that both Terry and Christine Hodson individually made that choice. As previously outlined, I was adamant that Terry Hodson should tell his wife, family and Nicola Gobbo that they could discuss a range of options with me in order that they could exercise a fully informed choice, but I have no knowledge or record now that he did or that any member of the Hodson family or Nicola Gobbo availed themselves of my offer.
27. George Brouwer commenced as Ombudsman on Monday 29 March 2004 and this conversation with Hodson was one of the first matters I briefed him on. This was firstly to ensure that Witsec arrangements outside of Victoria Police were available for witnesses such as Hodson and, secondly, to immediately initiate a review of Witsec generally. I note from my appointment diary that on Tuesday 13 April 2004 virtually the entire day was spent with Mr. Brouwer on office management meetings. Between 11.45 – 12.20 I have recorded a meeting with George Brouwer and Greg Carroll to discuss "CEJA and LORCHA". I believe that this was effectively my first opportunity to discuss specific issues with George Brouwer

formally due to my absence in Sydney at a Police Integrity Commission Hearing from Sunday 4 April – Thursday 8 April 2004 and the Easter Break from Friday 9 April – Monday 2004.

28. As I had indicated to Terry Hodson, I had already initiated informal discussions with other agencies and Victoria Police in relation to more flexible and reciprocal Witsec arrangements. Mr. Brouwer agreed and acted on both these measures immediately.
29. For many years I had been concerned about Victoria Police Informer Management and lectured to new Informer Management Unit members. These lectures were not simply based on “armchair reviews” but on twenty years of my own experience with the inherent risks in the investigator/complainant/informer relationship. Practical examples of Victoria Police problems in dealing with informers going back to the euphemistically titled “Kelly Outbreak” and identified by the Longmore Royal Commission in 1883, were included in my lectures. The Commission had recommended the scrapping of the detective branch, describing it as “a standing menace to the community, a nursery of crime and a department inimical to the public interest”. This was primarily because detectives at that point had not developed any special investigation skills but relied simply on the use of informers who were called ‘fiz-gigs’.
30. I pointed out that the extensive use of informer networks had been strongly discouraged in the 19th Century by police authorities in England and Ireland. However, Victoria Police had pushed the informer system to an extreme, where criminal agents were used as decoys and detectives more or less connived at the agents own criminal conduct, what today would be described as “green lighting”
31. The Longmore Royal Commission provided this account of the system: “A fiz-gig is paid to start the prey which the expectant detective captures without trouble or inconvenience. He is supposed to receive not only a subsidy from the detective who employs him, but a share in the reward, and a certain immunity from arrest for offences with which he may be chargeable. He may plan robberies and induce incipient criminals to cooperate, provided he lures the latter successfully into a detectives hands, and his whereabouts and antecedents are not supposed to be known to the police”.
32. However of particular relevance to this Commission, I believe are the 1932-33 “Kelley Inquiries” referred to in the project initiated by George Brouwer as Director Police Integrity to demonstrate “that the history of the Victoria Police over its 150 or so years, unhappily, is interwoven with recurring strands of misconduct and corruption”.

In 1933 following earlier inquiries, “Kelley sat for twenty-seven days and heard from 146 witnesses. Kelley was reportedly very critical of the police handling of money and informers. Police were apparently accepting rewards from insurance companies for the return of stolen cars. They justified keeping the money as ‘out of pocket’ expenses to reimburse themselves for payments made to informers. An editorial in the Age identified two other important areas of concern that had been revealed by Kelley.

“That there are opportunities for the illicit disposal of cocaine seized by the police was a surprising and disquieting disclosure”. Later the same article noted *“Another and broader*

question brought conspicuously under notice related to the 'unreasonable intimacy' between a member of the force and a criminal".

33. Kelley's three key concerns about informer management, police and drugs, and improper relationships, echo loudly today.
34. I was informed of the Hodson's murders by Acting Assistant Commissioner Steve Fontana at 1830 on 16 May 2004
35. I did not take any part in the investigation of these murders or the Fitzgerald investigation of the leaking of confidential information because of my prior involvement with CEJA and the Oakleigh Drug Theft case involving Hodson and Miechel. I have recorded in my appointment diary that a meeting was held at the office of the Ombudsman on Monday 17th May 2004 between 10.55am and 11.30am to discuss the Hodson murders investigation. I have recorded that this meeting at which I was present, was attended by the Ombudsman, Greg Carroll, Steve Fontana, Peter Nancarrow, Simon Overland and Kieran Walsh and that it was agreed that Greg Carroll would oversee the murders investigation actively.

I believe that I provided a copy of my diary notes of my meeting with Terry Hodson to Greg Carroll following this meeting on Monday 17th May. I would have expected these notes to have also been provided to Tony Fitzgerald in relation to his investigation into the unauthorised disclosure of a confidential Victoria Police Information Report. Tony Fitzgerald was appointed to investigate early in June 2004 but did not commence to investigate until November 2004 following the creation of the new Office of Police Integrity.

36. Prior to the creation of OPI and subsequent to the Hodson's murders of the Hodsons the Government initiated immediate action to strengthen the Ombudsman's powers and resources in relation to police corruption. The Ombudsman used his new police "own motion" power to initiate the Witsec investigation referred to above. The Witsec Report which was largely researched and written by former assistant commissioner Bill Robertson, was tabled by OPI in 2005.
37. In May 2006, a couple of weeks or so before I left OPI, I briefed Graham Ashton, Manager Operations, on several issues I wished to assure myself had been or were being followed up.

One of those matters was my belief, arising from my very limited knowledge of the investigation of the Hodson murders and my knowledge of two previous investigations involving the Hodson family, that apart from Paul Dale, there were three separate groups of persons who might be possible suspect. The most significant of these was Jason Rodda whom I believe Hodson had boasted about informing on in his statement to George Tapai in early 2004. I do not have a copy of this statement.

Graham Ashton's view was that I did not need to worry about that as they knew who had been responsible.

38. I was a little disappointed in Graham Ashtons's response and a week or so later I telephoned Assistant Commissioner Crime, Simon Overland, to say goodbye and to raise the same issue. He advised that he would ensure my concerns were addressed but also expressed the view that he believed that they had their man.

39. I have since read that police have treated many persons as possible suspects and formally interviewed a large number of these in relation to the Hodson murders.

However, I still do not know if these included the persons I believed needed to be ruled out - albeit that some of the links were tenuous.

DATED 21 June 2019

SIGNED:


Brian Hardiman PSM

Attachments: 4-5. ~~14~~

Appt Diaries - earlier: 1. Mon 23/2/04 - Tues. 9/3/04.
2. Fri 2/4/04 - Tues. 13/4/04.
3. Mon 17/5/04 - Tues. 18/5/04.

4. Informer Management Unit - Speech.

5. Past Patterns etc. OPI Reports.

MONDAY 23 FEBRUARY 2004.

0725 On Duty.

T/O Danyne Moloney – email coercive powers docs.

- [REDACTED]

1100-1145 Staff Meeting.

2030 Off Duty

TUESDAY 24 FEBRUARY 2004

0700 On Duty.

1030-1215 – CEJA

2000 Off Duty.

WEDNESDAY 25 FEBRUARY 2004

0800 On Duty.

1000 –LEAP reviews with Glen Noonan and Bill Parker

1300 –1440 Taser gun demonstration by [REDACTED] and [REDACTED] of SOG.

2000 Off Duty.

MONDAY 1 MARCH 2004

0800 On Duty.

1230 Celtic Club with EPSO's

1900 Off Duty.

SATURDAY 6 MARCH 2004 – MONDAY 8 MARCH 2004.

Hamilton via Ballarat Begonia Festival.

Sunday visit Portland

TUESDAY 9 MARCH 2004.

0830 On Duty.

1630 T/I Keith Moor (9292 1799) seeking comment on 4 Corners Programme.
Email

2000 Off Duty

Attach 2.

FRIDAY 2 APRIL 2004.

0730 On Duty.

[REDACTED]

[REDACTED]

SUNDAY 4 APRIL – THURSDAY 8 APRIL 2004.

Police Integrity Commission – Sydney with Murray Fraser and Michael O’Neill – (wife Anita) resumed hearing against McCabe. Jack Ransom of PIC.

FRIDAY 9 APRIL 2004 – MONDAY 12 APRIL 2004

Easter at Port Fairy.

TUESDAY 13 APRIL 2004

0800 On Duty.

1030-1145 Management Meeting – George, Bob, Greg, Rhonda and Ray.

1145-1220- George and Greg re CEJA and Lorcha

1400 -1430 Taped Interview by Bob and Alan in re my [REDACTED] dealings.

1445-1600, Bob Ray and Rhonda re revised office structure.(draft completed)

1820 Off Duty.

Attach. 3.

MONDAY 17 MAY 2004.

0650 T/I (Mob.) Dep Comm Peter Nancarrow re Hodson murders.

0745 On Duty.

0945 T/I Super Dick Daly re Hodson.

1000-1030 O with Robert Doyle, MP Leader of Opposition

1040 T/I Peter Nancarrow re Hodson- agree to meet with O.

1055-1130 Meeting, O, Greg, Steve Fontana, Peter Nancarrow, Simon Overland, Kieran Walsh – agree on active overseeing role by Greg Carroll.

1800 Off Duty

TUESDAY 18 MAY 2004

0930 [REDACTED]

1100-1200 Youth Accomodation &Crisis Services.

[REDACTED]

[REDACTED]

[REDACTED]

Many calls re jobs including ex AC Training [REDACTED]

1700 Chief Commissioner Christine Nixon with O.re coercive powers et al.

1730 T/O Super Ken Lay re [REDACTED] – no recollection of alleged comments – highly unlikely he would have used those words.

1815 T/I [REDACTED] – email letters for use to draft reply.

2020 Off Duty.

Attach. 4.



Speech

Informer Management Unit

Introduction

- OPI established November 2004 – has gone from approximately 6 staff to nearly 70.
- Head of OPI is the Director Police Integrity, George Brouwer who is also Ombudsman, but the two offices are completely separate – the Office of Police Integrity being established by the Police Regulation Act and the Ombudsman's Office under the Ombudsman Act.
- The objects of the Director are to firstly ensure that the highest ethical and professional standards in the police force are maintained and improved and secondly to ensure that corruption and serious misconduct is detected, investigated and prevented.
- To ensure these objectives are met, the Office has been granted coercive powers which remove privilege against self incrimination which can be used where necessary and own motion powers which means the Director has the ability to initiate an investigation into any matter of concern to him without having to wait for a complaint.
- This effectively means that the office can for the first time act proactively and identify practices, procedures and cultural issues which give rise to complaints and misconduct rather than simply responding as has been necessary in the past for the symptoms of those deficiencies to emerge in the form of serious allegations and complaints.
- For example, we are presently undertaking a series of what we call 'policy assurance reviews' of police stations, Bairnsdale, Geelong and currently Carlton to identify recurring issues across policing units which can be used to improve police management and the provision of police services.

Informer Management

Of course, this course is an attempt to proactively deal with the inherent risks in the police informer relationship.

Many of the most serious allegations investigated by ESD and the former Ombudsman now OPI have and still in fact relate to the mismanagement of informers. Certainly during the course of the Ceja investigation it has become apparent that corrupt and mismanaged police/informer relationships are the single biggest problem identified by the investigation.

For that reason, the Ceja investigation, which is not just about prosecuting corrupt police but also identifying and remedying issues of concern, recommended the introduction of a new informer management policy. That policy was introduced in September 2003 but towards the end of that same month on 27 September 2003, the

incident involving the alleged theft of drugs by former Detective David Miechel and his informer the late Terrence Hodson took place at East Oakley. As a result, police commendably took very timely steps and in December 2003 further evaluated and fine-tuned aspects of the policy on the basis of this incident.

That was of course the genesis of the establishment of the sterile corridor approach to the handling of high risk informers and their intelligence and the genesis of the type of course you are attending today.

That incident should serve as a graphic reminder of the need for police acceptance of the ever-present risks of compromise in the area of drug law enforcement and the need for very stringent controls in relation to informer management in particular.

In July 2003 a senior major drug investigation division supervisor conducted a comprehensive review of Hodson as an informer. A number of recommendations were made as a result of this review and the reviewing member Miechel in the presence of Detective Sargent Dale that there was a need for professional objectivity and professionalism in his dealings with Hodson.

It is alleged that Miechel ignored that advice and met Hodson on a number of occasions without documenting the meetings and in contravention of basic informer management control.

It is also alleged that Miechel breached operational security by taking a female with him in a police vehicle to targeted premises and that he had disclosed sensitive operational information to Hodson. Hodson had decided to plead guilty to charges arising from the alleged burglary at East Oakley and then of course on Sunday 16 May 2004 Terrence Hodson and his wife Christine Hodson were found murdered in their East Kew home.

Using systems

Police have many systems in place to prevent and detect corruption but often the supervisors assume incorrectly that they are being used. In this way systems can create a false sense of security and be worse than no system at all. The National Australia Bank's foreign exchange dealings and previous Victoria Police informer management practices are cases in point. That is often there is auditing of people using authorised systems but no capacity or inclination to check for people simply doing their own thing.

For this reason the Office of Police Integrity will use our own motion powers to check compliance with informer management policy and systems in future.

Example

Today I simply wish to give you some real life examples of problems Victoria Police have encountered in dealing with informers in the past and I am going to start with the problems identified by the Longmore Royal Commission in 1883 into what was then euphemistically titled the 'Kelly Outbreak'. You will be interested to know that the Commission in fact recommended the scraping of the detective branch describing it as a standing menace to the community, a nursery of crime and a department inimical to

the public interest. This was primarily because detectives at that point had not developed any special investigation skills but relied simply on the use of informers and what were called 'fiz-gigs'. I have heard various accounts of the origins of the word 'fiz-gig' as applied to informers but the Macquarie Dictionary definitions of the term include, 'a frivolous, gadding girl or woman and a kind of hissing firework'. Or in other words reading between the lines informers will be inherently unreliable and likely to blow up in your face.

No doubt partly for this reason, the extensive use of informer networks has been strongly discouraged in the 19th century by police authorities in England and Ireland. However Victoria Police pushed the informer system to an extreme, where criminal agents were used as decoys and detectives more or less connived at the agents own crime. In other words what would today probably be described as 'greenlighting'. The Longmore Royal Commission provided this account of the system: "A fiz-gig is paid to start the prey which the expectant detective captures without trouble or inconvenience. He is supposed to receive not only a subsidy from the detective who employs him, but a share in the reward, and a certain immunity from arrest for offences with which he may be chargeable. He may plan robberies and induce incipient criminals to cooperate, provided he lures the latter successfully into a detectives hands, and his whereabouts and antecedents are not supposed to be known to the police."

In order to reduce reliance on informers and introduce proper investigation techniques, the Commission recommended police receive training and an examination system for promotion where members would be tested in reading, dictation, report writing and mathematics and the compilation of a handy book for the use of members. Unfortunately has not been untypical of Victoria Police in the past, the examinations were introduced without any training and no book. Indeed teaching as well as testing was not a feature of the police education system for many decades to come.

Ethical compromise

However, maintenance of ethical standards is not simply a matter of knowing the right responses and recognising unethical behaviour. It is very much a matter of the acceptance of internalisation in the day-to-day lives of police members and the day-to-day activities of the police force. Members must be trained to recognise situations of a perceived conflict of interest. For example, very few police set out to be corrupt and yet as demonstrated by Operation Bart and Ceja many otherwise honest police have made unethical decisions, often because they have not been adequately prepared to recognise and to counter ethical compromise. One of the reasons this course is so significant is that compromise can start with very small things when you are dealing with informers. For example, you may simply be embarrassed by something you have said or disclosed inadvertently or you have met an informer more times than you have recorded in your diary because you know the informer will eventually provide you with good information and think it worthwhile maintaining your relationship when your boss doesn't.

Examples

I will now give you some recent examples of police informer relationships gone wrong:

1. The first involves the use by an informer of the license number and expiry date of the drivers licence [REDACTED] to an [REDACTED] detective. The informer used the details to obtain finance for [REDACTED]. The informer when later interviewed claimed that he had purchased [REDACTED] with the knowledge and approval of the member. Not unnaturally the member denied that he ever gave his informer the details [REDACTED] and he certainly denied ever agreeing to the purchase of [REDACTED]. The only possibility he could suggest as to how the informer accessed the details was that the access had occurred during some very lengthy meetings at licensed premises.
2. The second incident also [REDACTED]. In this instance the detective lent an informer his own bank card to pay for the hire of a car to be used at an urgent meeting by the informer with one of the targets of the relevant operation. Because of the urgency of the situation, and the fact that the informer had no money, the detective agreed to use his bank card as security for the hire of the car. The informer told the detective that he would repay the fees in cash when he returned the car the next day. It was only when the detective received his bank card statement with the bill of over \$1,000 that the detective realised that the informer had continued card beyond the agreed period of one day. However, to compound the matter the detective was too embarrassed by his error of judgement to notify his supervisor of what had occurred. In fact this was the most serious aspect of this case because as it turned out, the informer had possibly used the car for criminal activities and could suggest that the detective was involved in those activities.

None of us are immune from being compromised by informers. Now whatever you think of Wayne Straughan, the fact is that he was a very experienced detective and yet in [REDACTED] feeling sorry for an extremely valuable informer with whom he had formed a close working relationship over a period of time sent an amount of [REDACTED] to the informer because of severe difficulties the informer was experiencing [REDACTED] because of the high cost of living. The transaction was detected by [REDACTED] and when interviewed, Straughan acknowledged that the informer had in fact become a friend with whom he felt obligated.

But again, and I emphasise none of us is immune. One of the most significant breaches of security occurred in 1992 involving the showing on Channel 10 of a number of highly confidential police internal security units – that is the covert unit of the then police internal investigations department. Those documents had on investigation been found to have been provided to a so called informant – Stuart Gill or Paul ~~Dummett~~ whom we described in our Operation Iceberg report who had been ^{as} variously a confidant, friend and consultant. Like many informants he was in fact an information trader and manipulator rather than source of genuine information.

Leadership and professionalism

However, more worrying than these lapses is the cynicism displayed by some members in their treatment of informers. For example, in March 2004 the New South Wales Police Integrity Commission played a recorded telephone conversation in which former Victorian detective and Ceja target James McCabe threatened to reveal

the identify of his informer to criminal associates. "The fact is all I gotta do is play that tape to the wrong effing crowd and (the informer) is a dead man anyway." The attitude that informers are not worth worrying about and that their lives are expendable is of extreme concern but at the other end of the spectrum so to are the actions of members who provide reference to their informer. This story also demonstrates in a graphic way the very slippery slope of mismanaged police informer relationships.

Many years ago I was very critical of the handling of the informer by a former member of the now [REDACTED] squad. Despite my criticisms the crime department was quite dismissive of my concerns. However, some years later the informer contacted me to allege that whilst engaged in negotiations on behalf of a Victoria Police crime squad for the sale of [REDACTED] he had been arrested by uniform police and was to be charged. By way of alleged proof of his story, he later provided to me in the company of an ESD member, [REDACTED] together with a reference from the Detective Senior Constable of whom I had previously been critical.

The signed reference was addressed to Whom it May Concern, was on Police letterhead and stated "I am a member of the Victoria Police Force currently holding the rank of Detective Senior Constable of [REDACTED]. I have been a member of the Victoria Police for 14 years. I have known the former (first and second names) for a period of 13 years. For a period of 7 years (x) has been a registered informer with the Victoria Police assisting myself at [REDACTED] whilst I was attached to the [REDACTED] assisted with [REDACTED] investigations and [REDACTED] investigations and was on an ongoing basis. The assistance to the Victoria Police was voluntary and he received no payments for his assistance.

The member's signature was there

Detective Senior Constable xxxxx and his registered number.

Now to just complete this story a year long Ceja investigation culminated last year on a number of persons including the now former Detective Senior Constable and his informer with a range of [REDACTED] related offences.

Conclusion

Now, of course, nothing I have said here today should detract from that fact that properly managed informers are an indispensable tool of investigation and as has no doubt been drummed into you already a valuable force of resource. But they do present risks and a starting point must be that we are all at risk of ethical compromise in dealing with informers.

As observed way back in the 19th Century, use of informers is no substitute for good training and investigative technique and of course one of the ways in which we can maximise the benefits of informers information to ensure the best quality information is to share it and of course that is in large part the business of the operations intelligence unit.

Thank you.

Attch. 5.

Past Patterns — Future Directions

Victoria Police and the problem of
corruption and serious misconduct

Past Patterns — Future Directions

Victoria Police and the problem of
corruption and serious misconduct

Ordered to be printed
Victorian government printer
February 2007
Session 2006-07
P.P. no. 4

Letter of transmittal

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

This Report is presented to Parliament pursuant to s.102J(2) of the *Police Regulation Act* 1958.

It demonstrates that the history of the Victoria Police over its 150 or so years, unhappily, is interwoven with recurring strands of misconduct and corruption.

On becoming Director, Police Integrity in November 2004, I was charged with the responsibility of, amongst other things, detecting and preventing serious misconduct and corruption in Victoria Police. I commissioned a review of policing in Victoria to identify past instances of serious misconduct and corruption in order to discern what lessons, if any, would emerge to inform the future work of the Office of Police Integrity (OPI). The result has been revealing.

Corruption and serious misconduct in Victoria Police has a long pedigree and the circumstances which have triggered it have been remarkably persistent. The patterns of misconduct and corruption depicted in the Report are confirmed by our current investigations and will remain a source for the focus of our work.

There has been no shortage of efforts in response to the problems, as demonstrated by the many (19) reviews, royal commissions and inquiries set up by successive governments over the 150 years of the Victoria Police's existence. Most such bodies made recommendations for government action, few were implemented and fewer reforms were sustained. Many of these bodies were established hastily in response to a particular revelation or political imperative and given limited tenure and restricted terms of reference. Their recommendations were often compromised out of political expediency and lack of commitment to reform.

Attempts to address misconduct or corruption on an ad hoc basis made little or no contribution to building a corruption resistant culture within Victoria Police.

Inquiries into police corruption in other local and international jurisdictions demonstrate that in addition to a strong, well-supported management, a further element is required to maintain a modern ethical Force resilient to corruption and misconduct. It is a permanent body, independent of the Force and at arms length from government with inquiry powers and resources to apply continuing pressure to maintain and improve standards of police conduct and performance. Victoria is now equipped with such a body.

Police are responsible for preventing and detecting crime; preserving peace and safety; and enforcing and upholding the law in a manner which has regard to the public good and rights of the individual.¹ In carrying out their duties, police have been provided with significant powers. They are authorised to carry and use weapons; they can lawfully detain and imprison a person; and they can seize and retain property.

When police abuse their authority or break the law they breach the trust of our society.

The experience of OPI to date is that the vast majority of police men and women do a good and conscientious job. But our experience also confirms the extent of the damage done to those police, the Force and the community as a whole, when one or more police are found to be corrupt. This Report will assist the work of OPI and the Force in ensuring the highest possible ethical and professional policing standards in accordance with the Victorian community's expectations.



DIRECTOR, POLICE INTEGRITY

¹ *A Guide to the Role of Police in Australia* Australasian Police Multicultural Advisory Bureau Cth

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Note on language

Use of names

Material obtained from the documents inspected by the Review Team that could identify individuals has not been included, except where the involvement of the person is a matter of public record.

Definition

The term 'corruption' is used throughout this report. For convenience the following definition, borrowed from the New South Wales *Independent Commission Against Corruption Act 1988* is as follows:

Corrupt conduct is:

- a. any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- b. any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- c. any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
- d. any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:

- a. official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition)
- b. bribery
- c. blackmail
- d. obtaining or offering secret commissions
- e. fraud
- f. theft
- g. perverting the course of justice
- h. embezzlement
- i. election bribery
- j. election funding offences
- k. election fraud
- l. treating
- m. tax evasion
- n. revenue evasion
- o. currency violations
- p. illegal drug dealings
- q. illegal gambling
- r. obtaining financial benefit by vice engaged in by others
- s. bankruptcy and company violations
- t. harbouring criminals
- u. forgery
- v. treason or other offences against the Sovereign
- w. homicide or violence
- x. matters of the same or a similar nature to any listed above
- y. any conspiracy or attempt in relation to any of the above.

Overview

This Report provides important lessons for an understanding of current police corruption. It reveals a number of general themes associated with episodes of corruption and serious misconduct by serving police and with the success or otherwise of efforts to address these problems. Taking the long view of what has occurred suggests that the causes extend beyond individual deviance. It invites examination of the social and legislative context in which policing has operated and of the Force itself.

Persistent features that emerge include:

- the inherent nature of the job of a police officer, especially those involved in areas at 'high risk' – those dealing with drugs; establishing relationships with criminals or people who associate with them; and those using informers;
- how loyalty and solidarity among police has worked to good and bad effect;
- the impact of police unionisation through the Police Association;
- the strength and integrity of police leadership;
- the internal and external response to those who engage in improper and corrupt conduct; and
- the relationship between police and the government of the day.

Only unceasing watchfulness can counter and minimise corruption and serious misconduct by members of a police force. Corruption can never be wholly or permanently eradicated, but the aim should be to watch constantly for its appearance, build resilience and move swiftly towards neutralising its impact.

The very nature of the job exposes a police officer to the temptations of corruption. Some, have been prepared to cross the line of legality to gratify some private desire, greed or vice. The enormous patronage of SP bookmakers and the readiness with which liquor

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regulations have been flouted are two examples in Victoria's history where police have been expected to enforce laws which many citizens have regarded as petty infringements of their liberties.

There has also always been a close connection between illegal prostitution and police corruption. This kind of pattern arises because although governments can readily make something unlawful, they can't make it unpopular.

Any consideration of police corruption must take into account the role of detectives. The eminent English authority, Sir Robert Mark, points out that the work of detectives offers great exposure to the temptations of corruption. Of necessity, many of their duties are performed in secrecy, either alone or in small groups. The daily milieu of their work, dealing with informers, criminals and other equivocal characters must tend to jade the strongest character.

Yet detectives are often in the front line of the community's defence against lawlessness. The majority of them, by the exercise of great personal energy, initiative and courage are dealing with criminality which baffles and frightens ordinary members of the community. The reassurance offered by detective successes enhances the general standing of the Force.

Informers have long been an integral part of police technique. While the use of informers is often an effective and sometimes an indispensable tool of investigation, the practice is fraught with potential for corruption. In the nature of things, most informers are criminals. They are often rewarded for their information by police 'going easy' on their own crimes. The relationships between detectives and informers can readily descend into wholly corrupt partnerships in which the proceeds of crime are shared on a regular basis.

Despite strong resistance, mainly by detectives, new measures for the registration and control of informers were introduced in 1992. For them to be effective, stringent and continuing supervision must be applied by management. This area of concern has already received attention by the Office of Police Integrity and will continue to be monitored.

The pursuit of sexual favours, from either prostitutes or female members of the public at large, is another recurrent theme. This Report describes a particularly serious history at a rural location in Victoria which persisted far too long through management ignorance and neglect. Such abuse of authority, though clearly wrong, may at first seem unrelated to our

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strict understanding of 'corruption'. However, sexual misconduct damages the integrity and reputation of the Force as a whole. Wherever it

is condoned or ignored, it opens the way for blackmail and bribery. The recurrence of complaints of this nature demands continuing attention by Force management.

Any sworn Force has its own ethos. A good 'esprit de corps' is reflected in officers cooperating and supporting each other loyally, and working conscientiously. If there is poor management, if there are serious grievances, or if there is corruption – police solidarity can become blind loyalty to fellow members. An 'us against them' culture can emerge.

Victoria Police has made considerable efforts to protect whistleblowers and investigate their allegations. Nevertheless, in an organisation where the 'brotherhood syndrome' has been so strongly entrenched, harsh consequences can still follow for a member who, by complaining, has broken group solidarity. Retribution may take the form of ostracism, abuse, assaults (from minor to very serious), death threats and criminal damage to property. Such a situation is disturbing in a police force whose function is to protect the community and to uphold the law.

There have been periods in Victoria's history when police were paid appallingly low salaries and when conditions of service were harsh and unfair. Police were held in lower esteem than other parts of the public services. Their rights in disciplinary proceedings and for promotion were very limited.

Such conditions gave members every reason to seek improvement through cooperation and common action. Members were obliged to support each other to obtain bare justice. This history has left an imprint. Police solidarity in Victoria has supported and should support the best work of the Force but misguided solidarity has been a significant factor in the continuance of corruption.

Misplaced loyalty has at times allowed sections of the Force to decline into predators rather than servers of their community. The Longmore Royal Commission in 1881 called the Detective Branch a 'standing menace to the community'. In 1962, the Breaking Squad was

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exposed as a centre of systematic and serious crime and corruption, widely known in the Force, but long concealed through 'loyalty'. The Abortion Inquiry (1969) produced equally disturbing revelations. After completing his inquiry in 1976, Mr Barry Beach QC

referred to certain police as a 'brotherhood' which would readily commit perjury to conceal the crimes of fellow officers.

Not until 1917 did the existence of a Police Association receive official recognition. Its behaviour was by no means militant, and it had no real role during the police strike of November 1923. The strike saw widespread public violence and looting, there were two killings and six hundred police lost their jobs. The strike should have been foreseen and averted by wiser measures on the part of Force Command and the state government. Although it happened eighty years ago, the trauma lingers in Force folk-memory.

The Police Pension Act 1923 (following immediately on the strike) imposed wide restrictions on the Association's permitted scope of activities. It was not until the 1940s, that the Police Association consolidated its standing among Force members.

Relations between the Force leadership and its members has varied. The style of early Chief Commissioners closely resembled that of rigid hierarchical command, blind to any consideration that a constable also had civil rights. The private characters of some Commissioners did not always invite loyalty or admiration. Into the latter half of last century, there were periods of cooperation and there were times when the Association expressed 'no confidence' in the Chief Commissioner. The story of how the Chief Commissioner's power to dismiss an unsatisfactory member has been removed and restored is also illustrative. It remains a highly contentious issue for some police.

The Association has long projected its power into the political arena. In 1976, Mr Barry Beach QC made a scathing report after investigating alleged extensive corrupt and criminal acts. Proceedings were recommended against fifty-five members of the Force. The Police Association reacted vehemently, organising mass meetings and hinting at a strike, even before most police knew of the nature of Beach's report and its recommendations.

Premier Hamer accepted a number of demands made by the Association. The Police Association emerged openly on the political scene as a player of considerable muscle.

One might suppose that corrupt police would be found chiefly among the under-performers, the lazy and less intelligent members, of which all organisations have their share. But, at least from the 1920s up to the present, it is clear that some of the Force's outstandingly successful police have also been corrupt. Individual service records started with commendations for hard work, originality, courage, leadership and the successful

**noble cause, a mask behind
which corruption can flourish**

completion of difficult cases are no guarantee that the officer is not also engaged in corruption. Indeed, they may use their record and reputation quite deliberately as a cover for their corrupt and criminal activities. The high performing officer, with lots of arrests, can develop 'hero' status. When that officer is shown to be corrupt it gives rise to the notion of 'Noble Cause', a mask behind which corruption can flourish. There are too many examples of this 'split' attitude for it to be treated as an occasional accident or aberration. In monitoring corruption, it is vital that Force management include high-flyers just as strictly as its other staff, or its under-achievers.

Beginning with Victoria's earliest newspapers, relations with the media have been important to the police, even more so in the present age of radio and television. The interests of the Force and the interests of the media are related, but they are not the same. On some occasions, the police may believe that the better course is to preserve confidentiality, but the public's right to know, and the desire to maximise its own audience influence the media's view of the same matter. This tension is a healthy feature of an open, democratic society. At times, however, a self-serving and symbiotic relationship developed between sections of the police force and some journalists whereby each manipulated the other for their own ends, compromising the integrity of both.

Notwithstanding this, the broader public interest has undoubtedly been served by media coverage. Not only does reporting inform the community about changes to laws or policies, it also exposes wrongdoing by citizens and police. To take an example from history, the serious wrongdoings that occurred under Chief Commissioner Thomas Blamey (1925–1936), may well have escaped full examination without the persistent – indeed sometimes sensational – coverage they received in the Melbourne press.

The political and legal environment in which it operates influences not simply the efficiency, but also the ethical 'tone' of any police force. When political influence (rather than ability and character) ruled the appointments of chief commissioners, when governments responded to the demands of special interests such as

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gambling and liquor, the police were affected. As noted elsewhere, unenforceable laws that linger on the statute book, create conditions for police corruption.

What emerges from this Report is the always-crucial influence of the capacity and integrity of the Chief Commissioner and senior police on the performance of the Force. Again and again, the need for high-quality, active management down the line is essential. Police

have special powers and responsibilities which, in a modern democracy, require a high level of accountability and supervision to minimise the risks of misconduct inherent in their role.

Certain police procedures have created opportunities for bending or breaking the rules. It is not reasonable to expect a police force to operate smoothly when, for example, the rules for arrest and custody of suspects, or taking statements, fingerprints or DNA samples are left to the discretion of the investigators. Allegations of impropriety in the areas of property and exhibit management have been persistent and remain today. Solutions to policing problems

lessons learned in the past need to be remembered

have been proposed over time and are often painstakingly developed. Despite the care and attention which have attended such developments, there are practices and procedures which fall into disuse and become forgotten. Lessons learned in the past need to be remembered. Purposeful reform of regulation and practice in areas such as interview techniques and informer management can produce improvement. However, caution needs to be exercised to ensure reforms are workable and to prevent overcomplicated or onerous practices which would encourage police to 'cut corners' or drive practices underground.

A major stride forward for greater police accountability in Australia was the establishment of independent anti-corruption bodies to deal with these matters in a systemic and ongoing way. Interstate, these bodies grew out of the recommendations of a number of Royal Commissions which all concluded that trying to deal with corruption without such bodies would be illusory. Victoria established such a body, the Office of Police Integrity (OPI), in 2004. Since its inception, many of the areas OPI has focused on are strikingly similar to

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areas identified in this report. While the kind of corruption and serious misconduct on the part of some police has been remarkably persistent over time, the way of dealing with the problem will now be very different. Victoria now has, in effect, a standing commission with wide investigative powers and a mandate to lift the ethical and professional standards of the Force. This contrasts with earlier days of ad hoc investigations, from which the lessons and the remedies soon sank out of sight.

The advent of the OPI as a new and powerful independent organ of police accountability should not imply any complacency on the part of the Force's own internal mechanisms for

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monitoring corruption and enforcing ethical standards. History has demonstrated that corrupt police and those with self-interest in resisting change are adept at using 'the system' to their advantage. They are able to build alliances within and outside the Force to exert political and other pressure to circumvent accountability and evade justice. The government, the media and the community all have a stake in ensuring a professional and corruption-resistant Police Force.

The Colonial Period

Early History of Policing and Corruption

The original policing of Australia derived from eighteenth century England as inevitably as the First Fleet itself. The new settlers of 1788 had left behind a country where there were harsh laws, an entrenched class system, much poverty and crime, much public disorder and violence. Criminal punishments were draconian – horrifying, by modern standards. Many in both the Magistracy and police were notoriously dishonest and ineffective.

A significant factor in policing of that time was the relationship between police and criminals. It was a widely accepted belief among police that crime could be solved only by learning about criminals and cultivating relationships with them. To that end, police tolerated the establishment and maintenance of criminal haunts to facilitate such contact and built inappropriate relationships with criminal informers. Some of these relationships saw the active involvement of police in the very crimes they were supposed to suppress.

In 1829, the British Parliament passed Sir Robert Peel's Bill for improving the police in and near the Metropolis, and established the Metropolitan Police of London. There was some resistance to the concept by those who feared infringement of the traditional civil liberties of Englishmen. There were attacks on the new constables. Nevertheless, Peel's vision of a preventative body working peacefully in the community came to prevail. A new policing era began and (despite lapses and backslidings) endures in all well-governed modern communities today.

Policing the Port Phillip District

In 1835, six years after the establishment of Peel's New Police, settlers from Van Diemen's Land, despite official prohibition, began to occupy the land near what is now Melbourne. They included John Batman who, within a few short months, had written to Lieutenant Governor Sir George Arthur of Van Diemen's Land, seeking government protection.



In September 1836, Victoria's first three police officers arrived. They had been sent by the government in Sydney, where all three had already been dismissed for drunkenness. By March 1837, all had been sacked from their new billets in Port Phillip: one for repeated drunkenness, one for repeated absence, and one for bribery. Despite the discouraging start, replacements were appointed, including Henry Batman, son of the 'founder'.

In 1836, Captain William Lonsdale had been appointed Superintendent of the Port Phillip District, and its first magistrate. He recruited two 'prison gangers' from Van Diemen's Land to be police in Melbourne, believing that their experience would help to identify 'bolters' (as escaped convicts who had fled to Port Phillip were described). The plan was sound, but failed because of the unsuitability of the men, both of whom had resigned within eighteen months.

Several attempts were made to use the special knowledge and talents of the Aborigines in police work; their skill as trackers was legendary. Success was limited, although the corps of native police authorised by Governor La Trobe in 1842 was useful and well regarded. It was, however, abolished in 1852.¹

In the same period, Border Police, established to stop the unauthorised acquisition of Crown land and to prevent aggression against the Aborigines, were themselves often guilty of the conduct they were supposed to be preventing, thereby undermining the reputation of the developing force.

Even so, police numbers and presence expanded. In 1837, District Constable Patrick McKeever was appointed with two others to preserve the peace at Geelong. In 1838, an Act for regulating the police in towns was extended by proclamation from Sydney to Melbourne. Policing was extended to Portland, and in Melbourne, a new watch-house was built close to the site of the present Victoria Market.

In August 1838 Henry Batman, now Chief Constable of the Melbourne City Police, and under whose tutelage some of these police services had grown, was dismissed for bribery. Between 1838 and the appointment of Superintendent E. P. S. Sturt in 1850, no less than six Chief Constables were engaged to lead Melbourne's police. One of these, William Sugden, embraced the new English model of detectives and devoted ten per cent of his Force to a detective branch. Reliance on informers became the fundamental means for detectives to solve crime. Informer payments came from the wages of detectives without reimbursement. The Select Committee on Police in 1852 was told that 'there has been, in the case of several detective officers, a most suspicious suddenness in getting rich'.²

In 1851, two events dramatically changed policing practice and history. The first was the proclamation on 1 July separating the colony of Victoria from New South Wales under an *Act for the better government of Her Majesty's Australian colonies...founded on...principles of well-regulated freedom*. The second event was the discovery of gold in Victoria. Between 1851 and 1854, the population of Melbourne quadrupled. The variously established police services were too sparsely distributed and too uncoordinated to handle escalating crime and disorder. Along with many others, serving police simply deserted post and took off for the gold fields. Unprecedented social disruption and disorder threatened to overwhelm the new colony's government.³

The Creation of Victoria Police

Law and order challenges caused by the gold rushes led to the establishment of a Government Select Committee on 7 July 1852, chaired by Peter Snodgrass, MLC. Evidence was heard from many witnesses. Superintendent Sturt suggested that 'police should extend over the whole colony, directed by one Chief, and having all the material of a well-organised Department'.⁴ On 8 January 1853, *An Act for the Regulation of the Police Force* was assented to.

The new Force was based on elements of British policing experience, modified to take account of local conditions. Force management was autocratic and control centralised, and remained that way until well into the twentieth century. Decisions as to service improvement, including the power to dismiss and appoint constables, lay in the hands of the Chief Commissioner of Police. The Chief Commissioner was empowered to 'remove any Constable appointed under this Act, and to appoint another in his stead'. Additionally, he and other nominated persons could 'examine on oath into the truth of any charge or complaint preferred against any member of the Police Force as to any neglect or violation of duty in his office'. There was power to issue summonses to persons to give evidence in such matters, and it was an offence to fail to attend; or having attended, to fail to be sworn or give evidence. While the new Act also laid down rudimentary entry qualifications for police appointment, Robert Haldane's analysis of surviving records shows that the Force 'was comprised of men who in many cases were not what they were supposed to be'. Some police duties, together with a range of statutory offences designed to control police misconduct (including accepting bribes, desertion, assaulting superior officers and assisting prisoners to escape), were also set down. Even these basic standards reflected a rise in the public expectation of police.

Ongoing development of the Force was hampered by a number of factors: the government's method of selecting Commissioners; interference in Force management; increasing numbers of extraneous duties added to core functions; police pay cuts; and Force funding reductions. Overall, the view was that police could 'never be placed on an equal footing with other civil servants', as they were regarded as 'the servants of all work'.

Frequenting brothels and drunkenness were endemic amongst police. So much so, that in 1854 a prison was built in Richmond to hold police who broke the law. Chief Commissioner McMahon became embroiled in profiteering scandals; Mitchell, McMahon's predecessor, acknowledged that everybody dabbled in something, and Chief Commissioner

from this harsh environment ... loyalty to fellow police became the first consideration

Standish was a strange mixture of indolence, hedonistic weakness and creative strength.⁵ Early policing was a high risk, low status and poorly paid occupation of long, wearisome, twelve-hour shifts.

With few exceptions, most police were recruited from labourers, received no training and had to wait years for promotion. From this harsh environment police learned that it was better to rely on workmates for support rather than management. Loyalty to fellow police became the first consideration.

Eureka

The Eureka Stockade rebellion on the Ballarat goldfields was the first major test of the fledgling Victoria Police. In addition to the ordinary burden of maintaining law and order, the police were responsible for collecting the government licence fee from the miners. The Acting Chief Commissioner at the time was Charles McMahon, a former military man; his goldfields police were heavily armed with firearms, swords, bayonets and batons. The rough, hard policing strategy on the goldfields, contrasted with more harmonious policing in the rest of the colony. The licence fee of 30 shillings per month was both a device to raise much-needed revenue and an instrument of social and economic control as many miners found payment of the fee a genuine hardship. The government feared and despised the miners. Despite the government view that the miners were unruly, many citizens (and the *Argus* newspaper) regarded them as orderly and well disposed. Relations between miners and police were further exacerbated because police were paid half the revenue from fines imposed on miners who did not have licences.

The miners' patience fractured when Lieutenant Governor Hotham directed that miners' licences be inspected twice weekly. This, combined with anger at the authorities' response to the murder of miner James Scobie near the Eureka Hotel, resulted in the miners taking action. After torching the hotel, skirmishes, protest meetings, mass licence burnings and a violent licence hunt, the miners encamped at Eureka. Before dawn on 3 December 1854, 276 armed soldiers and police stormed the stockade and took 114 miners prisoner, wounded considerably more and killed possibly thirty. Only one policeman was wounded, but four soldiers were killed and sixteen wounded. It was said that the police, 'exasperated by their long-standing feud with diggers, committed many acts of brutality and wanton cruelty in their hour of triumph'. Eventually thirteen miners were tried for high treason. None were convicted. In the upshot, licence fees were abolished, miners' rights were issued, police numbers at the goldfields reduced and the oppressive manner of policing at the diggings curtailed.⁶

Chief Commissioner Standish 1858–1880

Appointed on 30 August 1858, Chief Commissioner Standish held office for nearly a quarter of a century. He was thus a dominant figure in moulding the Force; he was a man who was as flawed as he was talented. He did not favour 'militaristic' policing, preferring instead 'a proper civil police force'; he was the first to publish annual reports and criminal statistics. His easygoing and luxurious lifestyle impaired both the public image and the internal morale of the Force. Moreover, his stewardship as Chief Commissioner was marred by instances of favouritism, ill-considered decisions and corruption. Yet he retained office until 1880. Haldane notes 'it is arguable that the pervasive maladministration that derived from Standish's indulgences contributed substantially to the inefficient hunt for the Kelly Gang'.⁷

Between 1860 and 1863, three separate Government Select Committees examined the administration of the Force under Standish. One of these scrutinised the circumstances surrounding submission of a petition from 117 police who were critical of Standish and his

management. The petition was instigated by Sergeants Kelly and Browne, both of whom had been dismissed from the Force. The Select Committee found their dismissals harsh and injudicious and recommended reinstatement. Neither man was reinstated or compensated, notwithstanding that 440 residents of Richmond petitioned the Governor. Perhaps this should have been a warning to whistleblowers of a later age.

The Select Committee, which examined the Kelly and Browne case, recommended that Standish be replaced by a Board of three Commissioners. Not only did the government ignore that advice, but the Chief Secretary, John O'Shanassy, became even more closely involved with Standish, intruding upon the management of the Force, to a point where the pair began to circumvent Force entry processes to choose favoured candidates.

The 1863 Select Committee on Police also examined the performance of detective officers within the Force, clearly identifying that the achievement of every detective rested upon the degree to which he could establish networks of informers.⁶ Standish's unhappiest legacy to Victoria Police was the hunt for the Kelly gang between 1878 and 1880, later viewed as a chapter of errors. Standish left office under the Government of Graham Berry soon after the siege of Glenrowan, with a pension of 468 pounds. Standish's twenty-two years of service achieved much, but his conduct of the pursuit of Kelly 'relegated him to obscurity'.

The Kelly Outbreak

In 1878, three policemen were killed by Edward ('Ned') Kelly, and his associates. The whole Kelly cause célèbre still arouses public debate, but there is consensus about the shortcomings of the police and the methods used to capture the outlaws.

The Royal Commission into the pervasive mismanagement of the hunt (the Longmore Commission)⁹ shattered a number of police careers in addition to that of Chief Commissioner Standish. Widespread corruption was exposed. The activities of two members in particular, Winch and Lamer, included involvement in prostitution, gambling and borrowing from hotelkeepers, whilst being protected by Standish. Winch escaped criminal charges and retired on his pension. Special criticism was reserved for the Detective Branch, which was variously

the Detective Branch ... variously described as ... a 'nursery of crime' ... 'so iniquitous that it may be regarded as little less than a standing menace to the community'

described as 'inimical to the public interest', a 'nursery of crime' and a department whose 'system of working (was) so iniquitous that it may be regarded as little less than

a standing menace to the community'. It was said of the Branch leader, Inspector Secretan that '(his) appointment as officer in charge of detectives was a serious error of judgement (having) been promoted by the special favour of his officer (and)...described by several witnesses as...one of the most useless men in the service'. The Commission's recommendations included retiring Secretan and disbanding the Branch in favour of a new Criminal Investigation Branch that would be integral to the 'general police force under the command of the Chief Commissioner'.

Some understanding for the poor reputation of detectives extends back to 1862, when Chief Commissioner Standish had difficulties recruiting police into the Detective Branch. His solution was to recruit ordinary civilians, test them out for three days and then, if they were considered suitable, place them on a waiting list. If, later, they were called up to serve as detectives, they had to survive a one-month trial. There was no training.

At the heart of the Commission's condemnation was the long-standing use by detectives of criminal informers and the payment of 'secret service money' for information. The Longmore Commission found the informer system was all but useless in a rural environment,

**condemnation of long standing use by
detectives of criminal informers and
the payment for information**

where kinship and local knowledge made the establishment of informers difficult. Stark evidence for the 'precarious world of the police informer

was provided when gang member Joe Byrne murdered one of the few police spies, Aaron Sheritt, as a prelude to events at Glenrowan'. The system was also shown to be corrupt in so far as the spies in use 'may plan robberies and induce incipient criminals to cooperate', only to be lured into the hands of detectives.

In the end, the Longmore Commission's findings about the Force were ambivalent. It came down hard on numerous police, censuring them for incompetence, impromptitude, rivalry between senior officers, errors of judgement, indolence, misleading superiors and, in particular, it was critical of the senior superintendents. On the other hand, it largely failed to acknowledge the influence of other matters relevant to the Inquiry, such as socio-economic factors and racial, political and geographic issues. In addition to the structural recommendations referred to above, it made recommendations on recruiting, training, promotions, transfers, promotional examinations, compilation of a new police code and a proposal to vest management of the Force in a Board of three men. In its final report, the Longmore Commission 'highlighted yet again the characteristic inability of most senior police (to) willingly undertake reform and adapt to changing circumstances'. The features of the Longmore Commission of discovery, solution, piecemeal action, and forgetfulness, is a pattern often repeated in this Report.

Chief Commissioner Chomley 1881–1902

Hussey Malone Chomley took office as Chief Commissioner in March 1881. He was the first Chief Commissioner to be recruited from the ranks of Victoria Police, having joined the Victoria Police Force as a cadet in September 1852. His period in office was to bring the Force into the next century. Following the cloud left by Standish and the Longmore findings, he reorganised the Force. He was said to be a man of high character and principles and led by example; however his aim to form a smooth-running and respectable organisation was only partially successful.¹⁰

The Twentieth Century

Chief Commissioner O'Callaghan 1902–1913

On 1 July 1902, Thomas O'Callaghan was appointed Chief Commissioner of Police. The Longmore Royal Commission had described him as a man who was 'not trustworthy' and whose retention in the Force was 'not likely to be attended with credit or advantage to the public service'

As Chief Commissioner, O'Callaghan quickly lost the respect of his staff. Having actively campaigned during the 1890s for police to retire at the age of sixty, thereby accelerating his own promotion, on becoming Chief Commissioner he privately supported the government raising the retirement age to sixty-five years. This lengthened his own period of tenure at the expense of his members' promotional prospects. The government's decision was given effect by an Order-in-Council in 1902. Feeling betrayed by O'Callaghan's about face on this matter, a group of police met on 19 March 1903 to protest. A 'sympathetic press and concerned politicians' succeeded in having the obnoxious Order-in-Council cancelled.

Early in O'Callaghan's term, the government decided to withdraw police pension rights from all newcomers joining the Force after 1 January 1903; the objective was to save money and to bring the police into line with the public service. It was a bitterly received decision. Whilst O'Callaghan was not responsible for the government's action, he was seen as actively collaborating; Thomas Bent's government took no action on his own pension. Pensions remained an underlying cause behind the police strike of 1923.

O'Callaghan's leadership created discord in a number of areas including pensions; refusing to approve rules for the Police Association; and a new proposal that confined police to barracks to provide an emergency response capability. Police openly disobeyed O'Callaghan's decision to confine them to barracks, and a group went directly to the Chief Secretary to have the order annulled. With a rash of additional complaints from the community, Premier Bent commissioned James Cameron as Chairman of a Royal Commission to inquire into the Force and its management.



The Cameron Royal Commission (1905) examined matters affecting police pay, administrative methods and training. It gave considerable attention to the Force's inability to deal with unlawful gambling, especially the infamous John Wren's totalisator in Collingwood. Wren's Tote might be classed an early manifestation of modern day 'organised crime' in Victoria, since he used lawyers, politicians, petty gangsters and corrupt officials to sustain his enterprise for many years without any

Wren ... used lawyers, politicians, petty gangsters and corrupt officials to sustain his enterprise for many years without any significant police impact

significant police impact. Cameron found 'the police are powerless to suppress (the illegal gambling going on there)' without amendments to the legislation.

After stormy parliamentary debate, a new *Lotteries Gaming and Betting Act* enabled Wren to be closed down. Bent withdrew the Commission's funding, thus terminating its work. Some of the Cameron Commission's other recommendations related to police training, improvements to the beat system and the introduction of photographs and record sheets to aid criminal identification.

Shortcomings in O'Callaghan's leadership were also exposed, including his interference in the Licensing Inspector's prosecuting duties, and an alleged improper interest in a Carlton hotel. If proven, this latter allegation would have subjected him to instant dismissal under the Act. However, the Commission merely referred the matter for a legal opinion.

Yet, like Standish, O'Callaghan had made some positive reforms. The Police Guide, which he himself wrote to replace Police Regulations, was considered an 'excellent work'. He was not afraid to experiment with new ideas, such as the use of fingerprints which, at that time, was a new science. O'Callaghan was allowed to continue in office until 1913, when he was sixty-seven.

Six O'clock Closing – The Temporary Measure Lasting Fifty Years

For much of the twentieth century, Victoria's famous restricted hotel trading hours (popularly known as 'six o'clock closing'), stemmed from legislation introduced as a 'temporary measure during World War I, to safeguard the interests of our soldiers'. Earlier legislation had altered closing time from 11.30 pm to 9.30 pm.²

There was a perception that most people approved the restrictions and that 'the proposed reduction of the hours of trading will materially lessen the quantity of drink consumed'.³

Others were less sanguine. Mr Farthing, MLA, told Parliament that unless six o'clock closing 'will have the effect of curtailing drinking, and will make drunkenness less, then I say it is absolutely useless'. He produced statistics to support his argument and said that in his opinion, 'restrictive legislation never has the effect of curtailing drinking'. He predicted (accurately) an increase in 'sly grog' selling if the legislation was enacted. Nevertheless, amending legislation set closing hours at 6.30 pm.⁴

Despite the ostensibly temporary nature of the initial law, in 1919 Major Baird, the Chief Secretary, advised Parliament that the government had decided to maintain restricted closing hours as they were in 'the best interest of the people'.

As doubters like Mr Farthing had argued, restricted trading hours created a healthy 'sly grog' market. It was commonplace for publicans to trade after hours and otherwise to breach the law. A new term – 'the six o'clock swill' – described the behaviour of the crowds of men who descended on hotels after work, determined to get their fair share of drinking done before the shutters slammed down.

Insistence on enforcing these restrictions made a mockery of the law. People from all levels of society chose to breach the provisions on a regular basis, and police tasked with enforcing the law were subject to lucrative offers if they turned a blind eye to the breaches. Some yielded to temptation.

Allegations of corruption arising from the licensing laws continued to plague members of the Force, until eventually, on 1 February 1966, 10pm closing was introduced to abolish the 'temporary' prohibition first introduced in 1915.

Jury 'Squaring'

As will be seen later in this Report, the work of Justice Moffitt and others has demonstrated that organised crime, by its very nature, will attempt to corrupt police and others engaged in the justice system. It does this so that criminals can extend their influence

organised crime, by its very nature, will attempt to corrupt police and others engaged in the justice system

and power to avoid the consequences of their actions. While not pertinent to police corruption, an example of corruption involving organised crime from this era

resulted in amendments to juries legislation in 1922.⁵ Melbourne criminals were accessing lists of jury panel members to both identify and influence jurors to reach verdicts favourable to the accused. One of the most notorious criminals of the day, Joseph Leslie Theodore ('Squizzy') Taylor,⁶ was said to be an offender.

Introducing legislation to address the problem, Premier Lawson quoted from a memorandum prepared by the Crown Law Department which claimed 'the need for a measure to deal with attempts to pervert the course of justice by the 'squaring' or influencing of juries has long been recognised by those connected with the administration of justice in this State'.⁷ Many State parliamentarians opposed the legislation as 'a most serious encroachment on the rights of the accused'.⁸ Opponents of the Bill who wanted to know the extent of the problem were given examples of successful jury tampering prosecutions and reminded of the difficulties in proving this sort of corruption. Premier Lawson said:

Naturally the person who is employing these wicked means to influence the course of justice is not likely to let the police know what steps he is taking to influence the jury. Nor is the jurymen who has been bribed likely to disclose the fact.⁹

In identifying the reason for the lack of more prosecutions, Premier Lawson articulates one of the barriers faced by modern day investigators into corruption and organised crime. In spite of opposition, the government secured the passage of the Bill.

The Police Strike

On 31 October 1923, in an act unprecedented in Australasia, twenty-eight members of the Victoria Police Force went on strike. The precursors included disputes about pensions, poor pay and conditions and a system of supervision, involving the appointment of special supervisors, imposed by Chief Commissioner Nicholson, which his men detested.¹⁰

Nevertheless, Nicholson believed himself justified. There were insufficient sub-officers and supervision was lax. He had personally observed men 'idling on duty, gossiping, smoking in uniform, drunk on night duty and virtually invisible' in both the city and suburbs. A number of police had been charged with disciplinary offences and some of the more serious incidents involved breaking and entering and consorting with criminals. Even though the special supervisors may have had legitimacy, the issue was an emotive one not only because of what they did, but also because their selection for this duty had been injudicious, a point considered in the subsequent Royal Commission.

The trigger for the strike appeared to be Nicholson's decision to purge the Licensing Branch on 8 February 1923. On that day, he summarily transferred seventeen licensing police to uniformed duties; among them was Constable William Thomas Brooks. Nicholson and Brooks did not personally know each other, but Nicholson said 'from what had come to my knowledge I considered that he was unfit for this class of work...he was very spiteful about it and tried to create a deal of trouble at that time'. Brooks was well regarded by his Sergeant, had three commendations to his name, was known for his work ethic and had no disciplinary breaches.

The transfer to uniform duties changed Brooks. He became a trenchant critic and dissident and circulated a petition (in conjunction with Alfred Pitts) demanding restoration of police pensions, conditions of employment similar to New South Wales police and the immediate withdrawal of the special supervisors.

Over the next nine months, emotions within the Force continued to boil. Some 700 signatures were collected for Brooks' petition, the special supervisors continued their unpopular activities, and then Brooks was 'capriciously' transferred to Geelong where he was ordered to perform licensing duties in Colac. Disobeying the latter instruction (on the basis that Nicholson had said he was unfit for such work), Brooks returned home where he was suspended and charged in open court with insubordination. Brooks won the ensuing contest with Nicholson. On 31 October, Brooks led twenty-eight police against reporting for duty at 10 pm that night, in opposition to the special supervisors.

Unbeknownst to Brooks and the others and in an attempted sleight of hand, Nicholson assigned the special supervisors to other duties the day after Brooks' rebellion. In a meeting on 1 November between Nicholson, Premier Lawson and Brooks, Brooks was told government support lay with Nicholson and the special supervisors would remain. Brooks' strike continued a second night and, in the fallout, some 600 police, including Brooks, lost their jobs.

In retrospect, trouble was inevitable. The government had downgraded conditions of employment for police and otherwise treated them shabbily. Chief Commissioner Nicholson proved himself an inept leader and administrator – he apparently could not take advice and did not have the ability to see for himself the ramifications of his shortsighted actions. He drew comfort from the government line regarding pay and conditions. Police supervision and standards of conduct were poor. Action was required, but not the sort of action taken by Nicholson. Brooks precipitated a unique event in Australian policing history.

The consequences for Melbourne were appalling: rioting, looting, two killings, hundreds of injuries, considerable property damage and a Force more than 600 police below strength. A Royal Commission chaired by Sir John Monash later found that while

the police strike, regularly invoked to promote fear ... particularly when issues of police powers, resources, pay and conditions were discussed

pensions were a critical issue, they merely created the possibility of a strike. Brooks was the principal engineer of the strike and an unsympathetic government had failed to both recognise and address

police grievances. Nicholson also received his share of criticism for a number of insensitive practices. Subsequently the police strike was regularly invoked to promote fear of anarchy and mob lawlessness – particularly when issues of police powers, resources, pay and conditions were discussed.

The Callaghan Conspiracy Case

'Police Sensation' – 'Detectives Accused' – 'Astounding Story Told' – so ran the banner headlines of the *Argus* on 3 April 1925. The story went on to give a detailed account of the opening address of Mr Gorman, the prosecutor of a case against three detectives. The prosecution case went as follows.

Between 8 and 9 pm on Thursday 12 February 1925 a man named 'Patsy' Quilter delivered two cases of tea, two cases of gin, a man's overcoat and a woman's overcoat to the Londonderry Hotel in Wellington Street, Collingwood. The licensee's daughter, twenty-six-year-old Annie Callaghan, received the property, which had been stolen from the Railways.

Shortly after Quilter left the premises, Detective Inspector Neil Olholm and detectives Leo O'Sullivan, Donald John McPherson and Walter Rufus Fowler arrived at the scene. Claiming to have a warrant, they made a thorough search of the premises and located the articles Quilter had dropped off. After telling Miss Callaghan she was in serious trouble, O'Sullivan suggested to her that he 'might be able to do something for her'. When she refused to deal with him the detectives picked up her father, Terence Callaghan, from his dairy in Easey Street, Collingwood and brought him back to the hotel. He was told that the detectives

might overlook the matter if he paid them 10,000 pounds. Although that demand was refused by Callaghan, he finally agreed to pay the detectives 6,500 pounds. The detectives stayed the night at the hotel and drank to their success.

After a few beers, O'Sullivan told Miss Callaghan that he was a wealthy man, a curious achievement, when his annual salary would have been about 500 pounds.

Next morning, O'Sullivan accompanied Callaghan to the bank, and received an initial payment of 1,000 pounds in one hundred pound notes. Then O'Sullivan gave his benefactor sixpence for the tram fare home.

The following month, after receiving information, Inspector Montague and Superintendent Potter interviewed McPherson and Fowler. They admitted attending the hotel with Olholm and O'Sullivan, who performed special inquiries for the Railways Department. They claimed that no one from the hotel had been charged because the goods had been found in the back lane and not on the premises. The detectives said they had waited at the scene because they had information that the thieves were returning to collect the goods. The property was then taken back to the Railway lost property office. Olholm and O'Sullivan corroborated the story.

Other articles in the *Argus* detail how the saga unfolded.¹¹

Despite their denials, action was taken. Initially, it was proposed to hold an internal inquiry, but soon it was decided to present them before the court on a charge of conspiracy. Although O'Sullivan was junior in rank, he was also apparently the ringleader, a phenomenon that re-appears in other corruption cases through to current times. Before the hearing, O'Sullivan was admitted to a private hospital in Queens Road with a nervous breakdown. He was

O'Sullivan, junior in rank, was also apparently the ringleader, a phenomenon that re-appears ... to current times

unable to recognise any of his friends or relatives, and was even doubtful of the identity of his wife.

Fowler took more direct action

and disappeared without a trace. Olholm and McPherson were presented for trial. The jury found both men guilty, but delivered a strong recommendation for mercy due to their long service and previous good character. Judge Dethridge sentenced Olholm to twelve months imprisonment and McPherson to nine months. A subsequent appeal failed.

O'Sullivan was brought for trial in July 1925 and sentenced to three years gaol. It is unlikely that the Callaghan incident was the first illegal activity in which these men had acted together. O'Sullivan's comments about his wealth moved a member of parliament to suggest that such men should be forced to submit to an examination to satisfy the court they had come by their assets lawfully.¹² If not, he proposed the Crown should confiscate their property. Forward-looking as this comment was, it was not until towards the end of the twentieth century that asset recovery legislation came into force. Disclosure by police of their financial affairs remains a contentious issue in Victoria.

As is so often the case, until this time the four detectives had all been highly regarded, with excellent work records and numerous commendations for work well done. Lack of supervision played a part. Superintendent Potter said during his evidence: 'In practice, I interfere very little with the railway detectives. They have their own liberties and do not report property recovered to the detective office.'¹³

'The Combine'

Earlier in 1925, the *Argus* had run a story about brothel owners purchasing protection from police.¹⁴ It was claimed that a Joseph Nicolte had written letters to the Chief Secretary and to the Officer in Charge of the plain-clothes police, complaining that numerous brothels in Little Lonsdale, La Trobe and Spring Streets operated without police hindrance. On Wednesday 18 March 1925, Josephine Ricardo was reported as having handed a sworn declaration to the Chief Secretary. She also claimed that prostitution was flourishing in central Melbourne, and that police were being paid off by a core of brothel keepers known as 'the Combine' to avoid prosecution. It was also hinted that drug taking was rife in the brothels.

Police graft was reported as operating at all levels. Unless they were bribed to go away, policemen on the beat would loiter in front of brothels, scaring away the customers. More senior police were said to receive large payments to ensure that no prosecutions were launched against 'the Combine'. It was also claimed that prostitutes who attempted to operate on their own account were invariably prosecuted. By the standards of the times, the sums of money involved were quite large: in 1921, one woman is said to have paid 2,295 pounds to the police in 'protection' money. Commissioner Nicholson is reported as denying 'any knowledge of these things' amid calls for his removal.¹⁵

Chief Commissioner Thomas Blamey 1925–1935

Following the Royal Commission chaired by Sir John Monash, Nicholson retired for health reasons. The government announced as his replacement Thomas Blamey, a senior officer of the Australian Imperial Force who had served abroad during World War I. Blamey had many supporters who lauded his abilities as a great and gifted soldier. Sir John Monash praised him highly, especially for alertness and intellectual grasp. But other well-placed observers noted the indiscreet looseness of the style of his private life: indeed, they accused him freely of most sins and many crimes.

In the months before Blamey's appointment, Mr H. H. Smith, MLC, levelled allegations of corruption against the Force, and in particular, against the Licensing Branch. Smith claimed that 'sly-grog' and 'two-up' flourished because certain police had accepted bribes. He moved for a Select Committee 'to inquire into and report upon the administration of the Police department' because there was 'no place on earth where licensing supervision was so lax'. The government said that the incoming Chief Commissioner would handle the task. However, Blamey set a poor personal example. For Blamey, 'drinking was an innocent and indispensable element of everyday social life'¹⁶ and he openly breached the licensing laws in

his private life. The Chief Commissioner's own behaviour appeared to bury the previous allegations of corruption in the Licensing Branch.

The Victoria Police Association

The Victoria Police Association was born of Commissioner O'Callaghan's decision in 1902 to support the government in raising the police retirement age to sixty-five. A meeting by a number of police to protest O'Callaghan's action also considered forming an Association, a concept considered daring, for police then to be organised like a trade union was a rarity.

For the men of the Force, the need for unity was clear. Paid a pittance, working under conditions unacceptable to the ordinary labourer, yet expected to maintain themselves and their families in a 'respectable' manner and 'live in a house better than the house which an ordinary labourer occupies', was an almost impossible task. Police then faced considerable obstacles in their quest for fairer treatment. The milieu from which they came and into which they entered

once enlisted in the Force, those men perpetuated the tough environment they found, and resisted innovation and change

worked against them. They were drawn from the lower echelon of the working class; recruited for brawn, not for brains, they entered a rigidly hierarchical and disciplined system which treated them harshly. Although from blue-collar background themselves, they were expected to keep their peers in their place. Once enlisted in the Force, those men perpetuated the tough environment they found, and resisted innovation and change.

Approval for the establishment of the Victoria Police Association was finally given in 1917. From hesitant beginnings, it gradually became more assertive, although it played virtually no role in the 1923 police strike. The government of the day was in no mood to let the new Association get out of hand. On 27 November 1923, only weeks after the strike concluded, the *Police Pensions Bill*⁷ was introduced into Parliament for its First Reading. In addition to much needed improvements to police pensions, the Bill contained clauses that:

- prohibited members of the Force being members of political or industrial organisations;
- introduced penalties for persons causing disaffection among members of the Force, or inducing members of the Force to withhold their services or commit breaches of discipline;
- defined the role of the Police Association as being 'For the purpose of enabling members to consider and bring to the notice of the Chief Commissioner all matters affecting their welfare and efficiency other than questions of discipline and promotion affecting individuals';
- required the Police Association to be entirely independent of and unassociated with any body or persons outside the Force; and
- legislated for policewomen to receive salaries, wages and allowances at the same rate as men of corresponding rank.

The new Bill passed into law on 22 December 1923.

In spite of the Association's conservative position during the strike, and the legislative constraints on its activities introduced in law immediately after the strike, it soon fell foul of Chief Commissioner Thomas Blamey. As a military man, there was no scope in his perspective for a 'trade union'. It took only eight weeks from his appointment before he was seeking a Crown Solicitor's opinion as to the status of the Secretary (who was not a sworn officer) and advice about some of the Association's activities. The Solicitor's opinion did not support the Commissioner. Showdown was precipitated when Blamey introduced new regulations for promotions, which relied upon ability and examination results.

The Association opposed the change, preferring to retain a system of promotion by seniority. The Association then raised the ante and hoping for a Labor victory, made it a political issue in the 1929 State elections. Blamey was outraged and sought another Crown Solicitor's opinion. Before he could act, Labor won office and Blamey found himself fighting to keep his job, which had been advertised. Diverted thus from his skirmish with the Association, he refocused, retained his job, but suffered a significant salary reduction. Four days after commencing his new contract, he exacted swift retribution on the defiant Police Association by declaring it an 'illegally constituted body'.¹⁶ Through administrative and disciplinary action, he destroyed the 'old' Association and replaced it with a creature of his own making – then referred to as the 'new' Association – which was under Blamey's total control. It was not until the 1940's that the Association re-emerged in a more independent form.

The Kelley Inquiries

In 1932, allegations of police brutality led to an independent inquiry into Blamey's management. Mr A. A. Kelley, PM, was appointed to sit as a one-man Board of Inquiry into serious claims of police violence arising from a peaceful protest in Flinders Street. Blamey was convinced that police actions had been necessary as a counter to political extremism and supported his men. Kelley, in the end, exonerated the police.

The following year there were new charges that police were trafficking in cocaine,¹⁹ and had engaged in some thirty instances of criminal collusion over the return of stolen cars to insurance companies for financial reward. It was also alleged that police were accepting bribes for investigating the car thefts.²⁰ The most serious allegation though was that the Chief Commissioner had failed to act in relation to the allegations or take any action against the offending police. Again, Kelley exonerated Blamey and the police involved.

During this Inquiry, both the Victoria Police Association and the Chief Commissioner were represented by the same solicitor, R. H. Dunn. Dunn continued to represent or act for the Police Association over the next forty years.

Kelley sat for twenty-seven days and heard from 146 witnesses. Kelley was reportedly very critical of the police handling of money and informers. Police were apparently accepting rewards from insurance companies for the return of stolen cars.

They justified keeping the money as 'out of pocket' expenses to reimburse themselves for payments made to informers.²¹ An editorial in the *Age* identified two other important areas of concern that had been revealed by Kelley.

That there are opportunities for the illicit disposal of cocaine seized by the police was a surprising and disquieting disclosure.

Later in the same article noted

Another and broader question brought conspicuously under notice related to the 'unreasonable intimacy' between a member of the force and a criminal.²²

Kelley's three key concerns about informer management, police and drugs, and improper relationships, echo loudly today. A further curious side note to the Kelley Inquiries is not just their low profile in police history, but the fact that much of the archival material (between 1921–1934)

Kelley's three key concerns about informer management, police and drugs, and improper relationships, echo loudly today

relating to Blamey's years in office and the Chief Secretary's inward correspondence 1933–1935, could not be located. Nor could the Premier's papers for the years 1929–1937. These documents particularly

cover Blamey's anti-communist focus, the activities of his 'special section' and 'complaint files concerning alleged police corruption, violence and harassment during the depression years'.

The Brophy Shooting

Blamey was forced to resign in 1936 following the MacIndoe Royal Commission, which inquired into the circumstances in which Superintendent John Brophy had been shot and wounded in Royal Park. The Commission found that Blamey had attempted to cover up the true circumstances; which were that Brophy was in the company of two women in a chauffeur-driven car when he was shot. The Commission considered Blamey's responses 'were not in accordance with the truth' and he 'failed to satisfy the standards of public accountability and personal integrity that his position demanded'. Blamey's position was now untenable and he resigned. He maintained that he was 'standing down to give the government freedom of action' to reorganise the Force. The official police history completed in 1980 stated that Blamey's 'only crime [was] a desire to preserve the reputation of the Force'.²³

Despite encouraging the development of the Police Provident Fund and introducing a number of reforms in police training, conditions and welfare, Blamey's leadership disappointed those who appointed and supported him. His term was marred by allegations of misbehaviour and corruption, both by Blamey and by the men of his Force.

Chief Commissioner Duncan 1937–1954

Faced with a public relations nightmare about the honesty and reliability of the Force, the government sought help from what then was considered the world's leading police force: London's Metropolitan Police. Chief Inspector Alex Duncan, a highly experienced detective in that Force, was invited to Victoria to inquire into and report upon the workings of Victoria Police.

Duncan saw urgent need to change the methods of the Criminal Investigation Branch (CIB). In his interim report, he criticised the lack of proper training for investigators, lack of supervision and accountability and their poor work ethic. He was also troubled by their

interrogation methods and the allegations of harsh treatment of suspects brought in for questioning.²⁴ The government, impressed by Duncan's work, offered him the position of

Duncan ... criticised the lack of proper training for investigators ... (and) was troubled by their interrogation methods and the allegations of harsh treatment of suspects

Chief Commissioner. He took office early in 1937 and began a program of much needed reform and modernisation that was interrupted by the outbreak of

World War II in 1939. Duncan's administration grappled with entrenched bad practice, poor leadership, maladministration and corruption. His influence was indeed positive, but he could not wholly reverse these problems in a short time.

Duncan's personal commitment to dealing with corrupt behaviour shows in his treatment of a Detective First Constable, later named in the 1969 'Abortion Inquiry.' In 1945, the Detective First Constable and a Detective Sergeant charged a known thief with unlawful possession; a complaint was received that they were vying with each other for the best bargain in purchasing the offender's car for their own use.

When questioned, both men freely admitted their actions. Neither they, nor others who were involved in the matter, could see anything wrong with their conduct. When the file was referred to Duncan for attention, he was horrified, particularly by the fact that these senior men could see no wrong in their actions over the car. He found the matter 'very disturbing'. After investigation, he transferred all members back to uniform duties. His decisive action contrasted sharply with the easygoing style of previous years.²⁵

Notwithstanding Duncan's commitment to developing and maintaining ethical standards of police conduct, corruption did occur. Ex-member of the Gaming Branch, and source for this information, former Chief Commissioner, Rupert Arnold (1963–1969), when interviewed many years later, denied there had been widespread corruption in the Branch during the 1940s. In a puzzling contradiction, however, he did admit that 'big money was changing hands' and that more than one policeman was taking a pay-off of 300 pounds a week.²⁶ It seems the consequence of these pay-offs facilitated the operation of some large-scale gambling operations.

The Clyne Royal Commission

On 5 August 1942, Mr Hollins, Member of the Legislative Assembly for Hawthorn, called for an inquiry into allegations he had made about the liquor industry. Hollins made no specific charge of police corruption, but it was implicit in his allegations. Despite initial Government opposition, a Royal Commission on Licensing Laws commenced later that month (the Clyne Royal Commission). Hollins attended the Royal Commission but refused to give evidence and to corroborate his allegations. Most of his claims were considered to be without foundation. Although some criticism was directed at police for exceeding the functions of their office by withdrawing charges against licensees, their actions were not seen as deriving from improper or corrupt motives.

Hollins was not assuaged. He told Parliament that the terms of reference for the Royal Commission had been deliberately restricted to prevent the truth from emerging. He said a number of police had been willing to testify, but would not do so because the Royal Commission would not afford them sufficient protection. The government denied the claim.²⁷

On 15 September 1942, State Parliament commenced debating issues to do with Starting Price (SP) bookmaking. It was suggested that while police were doing their best to contain the situation, the sheer numbers of offenders were overwhelming. Other impediments included ineffective offence penalties and a refusal by the Commonwealth Government to provide telephone records. The latter effectively prevented police from identifying SP 'bookies' who operated on the telephone system. Perhaps unfairly, Hollins again made a short statement to the House, claiming that police were failing to take action about SP bookmakers.

Attempts to obtain Commonwealth cooperation in dealing with these offences can be traced back to the Premiers' Conference of 1933 and the Conference of State Police Commissioners in 1938. While the Commonwealth refused to cooperate, ostensibly on the grounds of privacy considerations, it is likely the real impediment was political.

While it may not be possible to draw strictly accurate comparisons between different eras, it is noteworthy that Justice Connor, Chairman of a Board of Inquiry into Casinos, reported to the National Crimes Commission Conference of July 1983 that 'illegal bookmaking is a multi-million dollar industry run by people who can get up to forty or fifty telephones, and who, if their telephones are closed down, can get them in new premises a week later'. In his final Report, Justice Connor estimated the annual turnover for SP

implicit in these comments is endless opportunity for bribery and corruption within policing

bookmaking was \$1,800 million in NSW and \$1,000 million in Victoria and that this meant loss of turnover to the regulated and revenue attracting Totaliser Agency

Board of some millions of dollars per week.²⁸ Implicit in these comments is endless opportunity for bribery and corruption within policing.

To Dismiss or Not to Dismiss

In 1946 during Duncan's term of office, the Chief Commissioner's authority to dismiss constables was lost. Originally bestowed by the *Police Regulation Act* of 1853, the power to dismiss fell victim to the Police Association's agitation over the police disciplinary system. A 'campaign' about the disciplinary process began, partly as a result of concern about Blamey's abuse of power and autocratic style. In 1938, the Victorian Country Party Government, supported by the Australian Labor Party, moved to introduce a number of amendments to the *Police Regulation Act*.²⁹

During debate on the matter, the then Chief Secretary, Mr Bailey, who introduced the Bill, made a prescient comment when he said 'the discipline of the Force cannot be maintained if there is to be a rigid observance of the rules of evidence...it is essential that

any court of inquiry shall have regard more to the real justice of the case than to legal forms'.³⁰ This point recurs repeatedly over the years whenever the issue of how best to maintain police discipline comes under consideration. The changes wrought by the amending Act included much needed improvement to police pensions. It also created a Board comprising a Police Superintendent and Police Magistrate (who held casting vote) to hear all contested cases involving breaches of duty or misconduct by police where conviction would result in dismissal.

The Board had no power to dismiss. It could only recommend dismissal to the Chief Commissioner.³¹ For Officers and Sub-officers, the Chief Commissioner had to forward the Board's opinion, together with his own recommendation, to the Governor-in-Council for a final decision.

The Chief Commissioner was also able to suspend from duty any member of the Force charged with an offence. Throughout the subsequent war years 1939–1945, industrial restraint held sway. But, with the election of the first Cain Labor Government in November 1945,³² the Association's position was asserted.

Committed to improving the lot of the police, the Labor Party claimed unique insight into their problems. William Slater, MLA, the Attorney-General in the new government, had formerly been the honorary solicitor of the Police Association. Unrest over discipline within the Force still prevailed. Dissatisfaction peaked in 1945 when a series of meetings was called by the Association. Attendances ranged from 600 to 800 members out of a Force of 2,000.

In due course, amending legislation was introduced to Parliament in March 1946. The passage was stormy. In a report to Parliament, Chief Commissioner Duncan gave his opinion that under the *Police Regulation Act* he was responsible to Parliament for the discipline and efficiency of the Force, so that any final decision on disciplinary matters should rest with him.

This prompted the Opposition to claim in debate that the Bill took control of the Police Force out of the hands of the Chief Commissioner and that 'to remove the right from the Chief Commissioner to command is to emasculate the Police Force'.³³ The government responded by saying, 'that every member of the legal profession, without exception, who has had experience of this class of inquiry has regarded the method as an entire travesty of justice'.³⁴ Earlier in the debate, Mr J. L. Cremean had argued that 'if discipline is to be maintained, it should not be at the cost of the democratic rights which all members of the community should enjoy'.³⁵ An example of so-called draconian discipline practices was given by a government member who reported that four members were transferred without charge from the CIB to the uniform branch, merely on the order of the Chief Commissioner.

The Government used its majority to make significant changes. Among them were creation of an independent Police Classification Board to 'determine the wages and general conditions of service of members of the police force'³⁶ and the independent Police Discipline Board 'to provide for inquiries into police misconduct'. Despite his calls to maintain the status quo, the Chief Commissioner was stripped of the power to dismiss constables. Restrictions on the right of the Police Association to be involved in matters of discipline and transfer (introduced in 1923) were also lifted.

While the changes were seen as fair and long overdue, they heralded a change in the management dynamic of the Victoria Police. From this point forward the Association was to become an increasingly influential, and at times, vocal body with considerable political

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influence which it could use to frustrate reforms by a number of Chief Commissioners. The role of the Police Discipline

Board in matters relating to the dismissal of staff in whom the Chief Commissioner had lost confidence was to prove contentious.

Chief Commissioner Porter 1955–1963

In 1955, Chief Commissioner Selwyn Porter replaced Duncan. One of his first initiatives was to form the Special Duties Gaming Squad to smash illegal SP betting. Led by Inspector Healey, a small team of investigators (including Sergeant 'Mick' Miller, later Chief Commissioner) quickly achieved spectacular results, with significant impact on some of the larger bookmakers. Although the illegal betting problem could never be entirely eliminated, actions heralded a turning of the tide.

For generations, SP bookies had provided a service that was widely used by all levels of Australian society. Most people who used the SPs were average law-abiding citizens who felt no guilt breaching laws they considered restrictive and unfair. As described by a former

when government decisions interpose police to prevent the community getting what it wants, opportunities for corruption emerge

Deputy Chief Commissioner – the community at large wanted certain goods and services, and there were actual and

potential suppliers. When government decisions interpose police to prevent the community getting what it wants, opportunities for corruption emerge.³⁷ This is the lesson demonstrated by SP betting, illegal prostitution, after hours drinking, various forms of gambling and the current conundrum with drugs.

The matter was recognised by Mr Justice Kinsella who in 1964 conducted an Inquiry in New South Wales into SP betting. He said, 'Governments have found in all ages it is exceedingly difficult to administer effectively a law which is repudiated by a great number, not necessarily a majority of the people.'³⁸

SP betting laws were not only difficult and unpopular for police to enforce; they created an environment ripe for corruption. The rewards to SP bookmakers were high. Paying off corrupt police was considered an investment, which allowed the 'bookies' to continue operating. It was an open secret that many members of the Force were 'on the take'. Like the rest of the community, many of those police who were on the take saw nothing wrong with it: it was an activity which merely allowed the public to have a bit of fun and harmed no one. But such an attitude led to other corrupt practices that were far from harmless.

The Martin Royal Commission

A variety of factors in 1958 prompted the State Government to establish a Royal Commission into Off-the-Course (SP) Betting (the Martin Royal Commission). Headlines were guaranteed when Counsel assisting the Commission, Mr A. E. Woodward, claimed that the 'most serious social evil' arising from SP betting was corruption in the Police Force.

Woodward suggested that sixty per cent of police charged with administering the gaming laws were corrupt, twenty per cent were apathetic, and only twenty per cent were doing their jobs properly.³⁹

Inspector Healey, who gave evidence to the Commission, agreed there was widespread corruption in the ranks, but said fifty per cent were doing a reasonable job, thirty per cent were corrupt, and twenty per cent were inefficient.

Woodward also described the problem of corruption in the Postmaster-General's Department (PMG). It was twofold. PMG staff actively assisted bookmakers by giving them the capability to operate call centres to any level required, whilst maintaining their anonymity. Secondly, PMG management refused to cooperate with police inquiries seeking to identify those same bookmakers.

The Commission heard that extortionists preyed on SP bookmakers, and this had led to violence and shootings. It was not surprising, the turnover in SP betting in Victoria was huge – perhaps 250 million pounds a year.

Within days of the claims of police corruption, the Secretary to the Police Association, Mr H. McConville, appeared before the Commission to protest. He called upon the government to defend the police through counsel. The request was acceded to within days.

Chief Secretary Arthur Rylah announced that provision of representation was 'in line with the usual practice where general allegations were made against a section of the public service'.⁴⁰ He also promised that the government would not hesitate to take action, including an open inquiry if necessary, if the findings of the Commission 'disclosed anything which could cause public uneasiness'.

The claims of corruption within the ranks were also 'looked into' by Chief Commissioner Porter. He said that, in his opinion, Inspector Healey had drawn an incorrect conclusion. Porter conceded laziness and inefficiency, but no corruption. The government used these remarks to justify a decision not to proceed with any additional inquiry, saying it 'would not only be futile but uncalled for'.⁴¹

The Commission's most notable and lasting result was creation of the Totalisator Agency Board (TAB), where betting was legal. Established by an Act of Parliament in 1960, it came into operation in March 1961. Although not entirely eradicating SP betting, the TAB has ensured it would never again achieve its former size and influence.

Revelations of corruption and establishment of greater accountability

The Cusack Report

The first independent inquiry which identified the emerging problem of organised crime in Victoria, together with its attendant evil of corrupting public officials, was the Cusack Report of 1964. In many ways, this Report set the scene for what was to follow. Organised ethnic crime had developed over a thirty-year period almost unnoticed by any but the police, until an unprecedented outbreak of violence at the Queen Victoria Market in Melbourne. Organised crime then fell under intense media and public scrutiny.

A vigorous police campaign identified the offenders, after which public attention moved on. Although advised to equip the police to root out the organisation behind the murderous attacks at the market, government authorities of the day ignored that advice. The problem festered, and returned with the organised crime group even stronger and more entrenched than ever. This was a discernible and repetitive pattern in other events of recent times.

John T. Cusack was a District Supervisor of the US Bureau of Narcotics, and an expert in the workings of Italian crime. The State Government, on behalf of Victoria Police, had requested assistance from the US authorities to investigate a series of shootings associated with the Queen Victoria Market, Melbourne's major produce distribution centre.

During a nine-month period from April 1963 to January 1964, four men had been attacked using shotguns. Two men had been killed and two seriously wounded. In each case the victims were men with connections to the southern Italian region of Calabria, each reputedly involved with the Italian crime organisation known as The Honoured Society.

The Honoured Society had been known to exist in Australia since the 1920s and the first authenticated report of its activities in Victoria dates from 1930. Since then it had grown in influence, and there had been numerous police investigations into criminal acts perpetrated by its members. Despite this, there was widespread scepticism about the existence of 'The Mafia' in Victoria, and its deadly potential remained widely unrecognised. All changed when the 'market shootings' occurred, generating widespread publicity and community disquiet.



The police response was swift and effective. Employing a technique similar to what now would be called 'Task Force policing', the Homicide Squad formed a special investigation team which included experienced investigators with skills particularly suitable for the assignment. (It even brought in a young constable who had not completed probation, but who was fluent in the dialect of the suspected offenders.)

While police had extensive intelligence material about The Honoured Society and its members, they lacked understanding of a culture so alien to their experience. The then head of the Homicide Squad, Jack Matthews, is said to have approached the then Attorney-General, Arthur Rylah, and proposed that the services of an experienced Italian police officer and a US Mafia expert be obtained. Rylah agreed, and as a result, Ugo Macera, an Assistant Commissioner with the Rome Police, and John T. Cusack were brought to Victoria to assist the inquiry.

The investigation was highly successful and a number of offenders were charged; great credit is due Matthews for his leadership and investigative expertise. Notwithstanding his talents, Matthews was later gaoled for his part in the abortion scandal. He demonstrates the point that superior ability can sometimes mask wrongdoing. In some cases, 'indiscretions' are overlooked because of an outstanding work record. This trait has survived over the years and is evident today in a number of cases involving high performing police who have been found to be corrupt.

Once the crimes were solved and publicity subsided, the problem of organised crime might have been forgotten, had not Cusack submitted a report to the State government prior to leaving Australia. It included general information of great relevance to the future of criminal law enforcement in Australia. The inquiry had established beyond doubt that the Honoured Society was well entrenched in Australia, and posed a considerable threat to the community. An estimated 1,000 members lived in Victoria and New South Wales alone with smaller numbers living in other mainland states.

Run by shrewd and hardened criminals, the Society had proven involvement in a variety of crimes including extortion, prostitution, counterfeiting, sly grog, breaking and entering, illegal gambling, people smuggling and small arms dealing. It was constantly seeking new ways to spread its influence, the Queen Victoria Market attacks being its first steps to take over the produce business. It used violence, intimidation, and a ruthless 'code of silence' on its members – death if they spoke to authorities.

While he praised the technical skills of the police investigators who had cracked the case, Cusack predicted that, if not wholly rooted out, the Society within twenty-five years would be capable of diversifying into all facets of organised crime and legitimate business – both would feed each other. In his opinion, the Force had the skills to take on the task, provided their efforts were properly organised and supported in what Cusack considered would prove a very challenging and lengthy task.

Cusack recommended that the Force establish an Extortion Squad to target the Society's criminal activity and an Intelligence Unit (as US police had done ten years earlier) to identify current and emerging patterns of organised crime.

Although the Report was assessed by both the government and the Force, it was never publicly released; one copy found its way into the possession of a local journalist who published extracts from it, but there seems to have been little enthusiasm for implementing Cusack's proposals. Perhaps the tactical success of the investigators in solving the market murders and related crimes reduced belief in the necessity to take further action. The Society was shrewd enough to avoid public exposure in the years ahead, as it set about consolidating and extending its influence.

While the Force did establish a small intelligence unit, initially within the Homicide Squad, resources did not permit any greater development at the time. However, by the 1970s a small Crime Intelligence Bureau independent of the Homicide Squad had been created. It was not until 1977 that Chief Commissioner Miller established a fully-fledged Bureau of Criminal Intelligence to undertake the role envisaged by Cusack.

An Extortion Squad was never established. Subsequent intelligence reports suggest that Cusack's twenty-five year prediction was accurate. The Society remains a feature of the Australian criminal landscape, having acquired great wealth and diversified into a variety of legitimate businesses. Occasionally it has been linked to a variety of shooting murders, bombings and extortions: it is allegedly active in drugs, prostitution and other crimes, as well as in legitimate business.

As an endnote to this case study, Vincenzo Muratore, son of one of the men killed in the market murders of the early 1960s, was himself shot and killed outside his home in Hampton in August 1992.

Mr Justice Sholl

On 4 June 1965, Mr Justice Sholl of the Victorian Supreme Court was quoted in the press as saying 'After sixteen years on the bench, I have lost confidence in methods used by police in interrogations. The more so since suggestions from the bench to modernise

after sixteen years on the bench, I have lost confidence in methods used by police in interrogations

what is done are entirely disregarded'.¹ His Honour's criticism related to a case in which a confessional statement police claimed had been given voluntarily by the accused had in fact been made under duress. His Honour drew attention to the fact that police interviews took place without any independent witnesses being present, without any attempt to have a proper shorthand or taped record of interviews, and without the presence of any person to represent or assist the suspect.

His comments should have taken no one by surprise: he had been making them since 1961. Acting Chief Secretary of the day, Mr E. R. Meagher, was reported as saying he would discuss the Judge's comments with senior police.² As far as is known, no major change resulted from any discussions.

Nothing further was done until 1965. A motivating force had appeared in the form of coincidental allegations of police corruption from the Mr 'X' Inquiry.

The Mr 'X' Inquiry

Mr 'X' was a police informer who for years had been providing detectives – particularly members of the Breaking Squad – with information. In return, he enjoyed immunity from prosecution. Mr 'X's information had resulted in many offenders being convicted and sentenced to imprisonment, but his relationship with detectives soured when he was charged with receiving stolen goods. Fearful of what would happen to a known informer in gaol, he decided that his salvation lay in informing against the police. He made broad scale allegations of corruption against the Force.

In the absence of any formal complaint procedure, Mr 'X' had been unsure of what to do. Having read Mr Justice Sholl's criticisms of the police in the daily papers, he telephoned the Judge and explained his story. From there he was referred to Solicitor-General Murray.

Mr 'X' spoke to Murray frankly and at length about his criminal activities and his relationship with the police, all of whom he named. He claimed police had formed a relationship with him to dispose of stolen property and would take a share of the proceeds. He told Murray that the police concocted evidence to convict innocent men, accepted bribes and were in a variety of conspiracies with criminals. While Murray was considering the matter, Mr 'X' went public and took his story to the media to ensure there would be an inquiry into police corruption. On 11 September 1965, *Truth* newspaper carried a banner headline: 'Police are Accused of Prison Murder Plot'.

Meanwhile, Murray had given a preliminary report to the Chief Secretary, Arthur Rylah, who referred it for investigation to the Chief Commissioner, Rupert Arnold. Arnold put a team of senior police to work on the inquiry.

Despite calls for a Royal Commission into Mr 'X's allegations, there was no independent inquiry. Arnold's team of investigators concluded there was no evidence to launch criminal prosecutions, but six members of the Force were charged with disciplinary offences and appeared before the Police Discipline Board.

The findings yielded the following results: of six men charged, one was reprimanded for neglect of duty, two had neglect of duty charges adjourned for six months and the remaining three had all charges against them dismissed. This feeble penalty by the Discipline Board is

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simply part of the pattern that followed for years to come. During the police investigation, many members admitted using informers, with some claiming

that a major part of the serious crime in Melbourne was solved directly by their help. To achieve that result, however, it was necessary to overlook crimes committed by those same informers.

Throughout this era too, other forms of corruption continued to flourish. These included 'spotters' fees' offered by undertakers, security shutter suppliers and tow truck operators. In time, the corruption potential associated with these services led to a centralised allocation system through the police communications system, D24. Other forms of 'soft'

corruption included free meals from various restaurants, free bread, free milk, free newspapers and free liquor from hotels. The beneficiaries of these low-level activities were mostly uniformed police. Many might see these matters as mere 'perks of business', but they create an obligation between the supplier and recipient which carries potential for more serious exploitation.

The Police Association Response to Mr 'X'

The Victoria Police Association and its members generally attacked the government for the manner in which it responded to Mr 'X's' allegations. Feelings ran high and a special general meeting was held.³

Four hundred police attended the meeting. Twenty-one of whom spoke. Five key points of discussion were put to the meeting by the Executive:

1. The investigation and prosecution of recent disciplinary charges against members of the Victoria Police Force, based on allegations made by the criminal informer known as Mr 'X'.
2. The apparently unwarranted indemnities against prosecution granted to the criminal informer known as Mr 'X'.
3. The dangers to the community involved in indemnifying criminal informers who are prepared to inform against the police or public.
4. Responsibility for the defence costs of these disciplinary proceedings.
5. Remedial action that might be taken to prevent a recurrence.

The depth of feeling against Mr 'X' can be inferred from a comment by one of the speakers who described him as an 'infamous character...the lowest type of humanity; he was rejected by criminals and by other persons in society. This fellow had brought disgrace to us through his approach to the Solicitor-General, Mr Murray'.

Criticism was also directed at media coverage of the allegations, following which press representatives walked out of the auditorium. There was general acceptance that Mr 'X', a 'reasonably clever criminal' who found himself in trouble, had 'hoodwinked' the Solicitor-General into taking unwarranted action against police in circumstances where there was a lack of evidence. The Discipline Board had 'showed what it thought of the case presented when it dismissed three of the cases without any charges at all being proved against its members, two had cases adjourned and another was reprimanded. These charges that our members had supposedly proved against them were at the bottom of the barrel – if you could not charge anything else you charged 'neglect of duty'.

Much was made of the supposed preferential treatment given to Mr 'X' who, with his family, had been allocated a Housing Commission residence in a country town, thus leap-frogging the 30,000 people on the Housing Commission waiting list.⁴

Questions were raised about the legal costs incurred by the Association and the Secretary advised the meeting that the government would meet its own costs and pay 500 pounds of the estimated 900 pounds of Police Association costs on the Supreme Court writ.

The following motions were put and carried by the meeting:

- The government was to be told that the Victoria Police Association was concerned at the damage caused to the Force's reputation.
- The Executive of the Police Association was to examine ways of preventing a recurrence of the situation.
- The Chief Secretary was to be asked who had directed the prosecutions against the members of the Force.
- The Association was to be instructed to give financial aid for legal advice on the possibility of civil action against the Solicitor-General, the Chief Commissioner of Police, any of the Assistant Commissioners or any member of the Force involved in launching these prosecutions and, if the legal advice was favourable, that further financial aid was to be given to prosecute the matter in the civil court.

Although the strident dismissal of Mr 'X's allegations was predictable, it highlights a wider problem faced by corruption investigators. Almost invariably, those with intimate knowledge of police misconduct are criminals whose credibility is seriously undermined by their own known

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character and background. Experience shows that jurors are often loath to accept the evidence of such

people against the word of a police officer; this can make the prosecution of corrupt officers a very difficult task. Similarly, police informers with criminal backgrounds used as witnesses against other criminals face the same difficulty, and defence barristers strive with vigour to discredit them.

The police working environment of the day probably influenced the defensive attitudes. Crime was increasing and pay and conditions were poor. The Force was said to be at least 683 below appropriate strength,⁵ and the rate of resignations was increasing. Such factors, combined with the Force's long-standing tradition of group loyalty, make their resistive response and knee-jerk rejection of external criticism understandable, though not more creditable.

The Mr 'X' matter proved valuable training for the Association Executive, when they faced the greater challenge of the Beach Inquiry in 1976.

The Fall of Scotland Yard

In November 1969, the unthinkable happened. Scotland Yard (officially part of The Metropolitan Police Service of London), for generations the yardstick by which both the Victoria Police and many others of the world's police forces were judged, was rocked by

corruption allegations. A front-page article in *The Times*⁶ trumpeted the news that 'Tapes reveal planted evidence. London policeman in bribe allegations'. The evidence of a conversation with one of the corrupt officers revealed the existence of a 'firm within a firm', and it was a firm that was prepared to do business with criminals – for a price.

Corruption was found to be endemic within the Criminal Investigation Department (CID) of the Yard and had apparently been occurring for generations. The behaviour in CID contained many similarities to the allegations made against the Victoria Police Breaking Squad in the 1960s. Among the allegations were planting evidence on those charged with offences; committing perjury to obtain

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convictions; accepting bribes for not prosecuting; and using criminals as agents provocateurs to arrest others for receiving stolen goods. Against entrenched opposition from the CID, which at that time was solely responsible for investigating corruption complaints against Metropolitan Police, progress was slow. In March 1972, the inquiry finished, resulting in gaol sentences for two detectives and the disappearance of a third, who fled Britain.

Scotland Yard's ability to confront endemic corruption was significantly enhanced by the work of Sir Robert Mark who later became Chief Constable of 'the Met'. Mark had begun his distinguished career with the Manchester Police before World War II, and was invited to join the Metropolitan Police as an Assistant Commissioner in 1967.

Shortly before publication of *The Times* article, Sir Robert had been appointed to the rank of Deputy Commissioner and had responsibility for discipline within the Force. Despite not being able to conduct his own corruption investigations, he made strong inroads into the problems of misconduct and corruption. His efforts were appreciated by uniformed officers who felt tainted by the publicity given to corrupt CID members. Mark had done away with a system where police convicted of criminal offences were suspended on full pay until their appeals had been heard. He also followed up some unsuccessful criminal prosecutions against police with disciplinary action leading to their dismissal. Perhaps one of his most effective but simple strategies was to send detectives back to the uniformed branch, a powerful act of public shaming. The practice came from the provincial forces and was previously unknown to the Met.

In his autobiography,⁷ when noting the relative lack of corruption amongst uniform members compared to detectives, Mark notes, it was 'not that they were essentially different from the CID so much as that the basic police principles of honesty and decency are not put to the much more severe test and temptation faced continually by the detective'.

When he had the opportunity to end the CID role in corruption investigations, Mark created Scotland Yard's A.10, a special anti-corruption branch. This unit set a standard for uncovering and weeding out corruption in the organisation which its successors continue to the present day.

From its inception, A.10 had much to do. Throughout the 1970s, various elements within Scotland Yard had been accused of corruption on a massive scale. Huge sums of money were involved and numerous officers up to the rank of Commander eventually received lengthy terms of imprisonment.

The story of corrupt conduct in the Met again echoes resoundingly to local investigators: improper relationships with criminal informers, and inadequate or weak legislation to control social issues such as prostitution, licensing, gambling and, more recently, illicit drug use.

The Abortion Inquiry

In a bid to expose police corruption and to reform abortion law in Victoria, Dr Bertram Wainer made a series of allegations about police corruption and the illegal abortion industry. On 9 December 1969, Wainer handed six affidavits to Solicitor-General Murray, in which he specifically alleged that high-ranking police were accepting bribes.

Chief Commissioner Wilby, a former Homicide Squad member, was directed by the government to personally investigate the allegations. However, five of the six deponents refused to be questioned, thereby forcing the government to appoint an independent Board of Inquiry.

William Kaye, QC, was appointed as a one-man Board on 5 January 1970. He was commissioned to determine whether members of the Force had demanded or accepted money from persons concerned with abortion in Victoria. The Board sat from 12 January 1970 to 28 May 1970.

The inquiry found the corrupt activity could be traced back to 1953 and centred on the Homicide Squad. Members of the Squad were being paid up to \$150 per week at a time when a detective's weekly wage was \$122.

A number of inappropriate relationships between police and abortionists were identified. One involved a former Homicide Chief Inspector, who as a Detective First Constable had been ordered out of the CIB by Chief Commissioner Duncan. After retiring from the Force, the man found employment with a reputed abortionist. This doctor was the only person called to the Inquiry who refused to answer all questions touching on the subject matter, thus inhibiting any exploration of the exact nature of his relationship with the former Chief Inspector.

Kaye found against four men:⁶ Superintendent John Matthews, Inspector Jack Ford, retired Station Officer Frederick Adam and former detective Martin Jacobsen. All four stood trial in 1971, charged with conspiring to obstruct the course of justice in so far as they accepted bribes to protect the illegal activities of abortionists.

Matthews, Ford and Jacobsen were convicted and sentenced to five, five and three years gaol respectively. Adam was acquitted. When passing sentence Mr Justice Starke commented, 'By your conduct you have severely shaken the community's confidence in the Victoria Police Force, and inevitably I think the morale of the Force must have lowered'. Justice Starke's comment proved depressingly correct. Even though the Homicide Squad was numerically small, it had enjoyed an iconic reputation within the Force for professionalism and integrity.

The Death of Neil Stanley Collingburn

On 26 March 1971, two Constables intercepted Neil Collingburn driving a car with two passengers in Nicholson Street, Carlton. Property suspected of having been stolen or unlawfully obtained was found in their possession and the three men were taken back to Russell Street Police Station.

One of the Constables travelled in the back of Collingburn's car. On the way, the two men argued and Collingburn is alleged to have produced an iron bar and threatened the Constable with it. There is a dispute about what happened on their arrival at Russell Street. The police claimed Collingburn went berserk and attacked a Constable without provocation. One of Collingburn's associates is said to have joined in the fight when a Sergeant came to the Constable's assistance. The police claimed that the only force used was in self-defence and then only to the degree necessary to subdue Collingburn.

Collingburn's associates, on the other hand, alleged that Collingburn had been subjected to an unprovoked assault by police in which Collingburn had been punched, kicked, jumped on, kneed and had his head rammed into steel lockers. They claimed the left side of Collingburn's face was black and blue and that he was bleeding from the nose and mouth.

Although the fight left Collingburn severely injured, he told the police duty officer that he was too scared to make a complaint. He was taken to St Vincent's hospital where, initially, he told medical staff he had been injured by falling from a chair. When told he was severely injured and would need an operation, he told the staff that police had beaten him.

Following surgery to repair a ruptured duodenum, he died on Sunday, 28 March 1971. Medical evidence of his condition at the time of admission showed in addition to the abdominal injury, he had a small bruise over one eye and a slight swelling of the lip. The case attracted wide publicity and induced public demonstrations against the police. The police involved denied the accusations but were charged with Collingburn's manslaughter. They were found not guilty by a jury in March 1972. The Collingburn case generated considerable publicity, and despite a final verdict exonerating the police, there were many in the community who saw the Force as violent thugs.⁹

The First 'Ombudsman' for Victoria Police

Prior to the verdict in the Collingburn case, the then Chief Secretary, Mr Rupert Hamer, announced on 15 September 1971, that he had appointed retired Stipendiary Magistrate, Allan Edwin O'Connell, as an 'Ombudsman' to review the action taken on complaints made against police. The retired Magistrate's role was to:

- examine files relating to complaints against members of the police force; and
- investigate any complaints by a member of the public who might be dissatisfied with the result of any investigation of any complaint against members of the police force which he has made; and to submit a report to the Chief Secretary stating whether he was satisfied or not that the complaints had been properly dealt with and whether proper action has in his view been taken.¹⁰

The appointment reflected a recommendation made in an inquiry by Sir Eric St. Johnston, discussed later, that the Chairman of the Police Discipline Board should make an annual examination of complaints against police made during the year, and report to the Chief Secretary as to whether proper action had been taken.

Due to a potential conflict of interest (the Chairman might have to comment on a case upon which he had himself adjudicated) the government decided to appoint an entirely independent person.

Whilst a welcome improvement, the concept had deficiencies. Without doubting O'Connell's skills for the task, he was a man at the end of a busy working life who was expected to make sense of a voluminous number of files on an annual basis.

Apparently he was to undertake this work without recourse to any data other than that given to him by the police. He had no staff, no budget, no vehicle and no premises. It was, moreover, merely a part time job.

The Under-Secretary wrote of the position:

Mr O'Connell is empowered to require answers to his questions from members of the police force and has access to relevant police files and records. As an investigator and not a law enforcement officer Mr O'Connell does not have similar powers over other individuals but he can and does seek interviews with witnesses.

Mr O'Connell's main task is to make reports and recommendations to the Chief Secretary. These reports are not made public but are used by the Minister to reply to allegations against police. Acting upon advice from Mr O'Connell, the Minister indicates what action, if any, is to be taken against the members concerned.¹¹

At the time, the announcement was welcome news, prompting calls for the concept to include other government departments. The Victorian Council for Civil Liberties reminded everyone of their calls for the appointment of a police ombudsman for the past five years and the *Age*, in an editorial, perceptively noted that Mr Hamer had failed to specify what powers the 'ombudsman' would have.¹² It commented that 'his effectiveness obviously depends to a large extent on whether he can call for documents, subpoena witnesses and take evidence on oath or not'.

In 1973, the first State Ombudsman took on a limited and reactive role in respect of complaints against police, a role that mirrored the code applied by the new office of Ombudsman to other government departments. It did not have a specific power to review police complaint investigation files.

Review of police complaint investigations was discharged by another retired Magistrate. Unfortunately, like any system of accountability based simply on paper review, it proved less than effective. Some years later when inquiring about the progress of long-delayed reviews, it was found he had died. His widow expressed relief at the fact that the growing mass of files taking up space in her lounge room could be removed.¹³

The role of reviewing police investigations into complaints against police was formally taken over by the State Ombudsman in 1980.¹⁴

The St. Johnston Report

Following release of the Kaye Report there were calls for a Royal Commission into the Victoria Police. But 'the Liberal Government decided against such a course because they had seen enough dirty linen washed through the press during the abortion Inquiry. Instead of a public hearing with judges and lawyers in the presence of the media, the Bolte Government chose a much less public course, arguably just as effective as a Royal Commission'.¹⁵

Colonel Sir Eric St. Johnston, a former Chief Inspector of Constabulary for England and Wales, was commissioned to undertake a study of the workings of the Force. Commencing in October 1970, St. Johnston submitted his Report to Government in November 1971 in which he made 186 recommendations for restructuring the Force.

St. Johnston recommended removal of the investigation of complaints against police by officers from the district in which they occurred, and a process to improve communication with complainants. He also considered the idea of a body separate from police to undertake the investigation of police complaints, but believed it to be impractical. He thought the idea unwarranted, as he was impressed by the quality of police complaint investigations, identifying improved communication with complainants as the only area for improvement. In his Report, St. Johnston indicated the numbers of matters referred for disciplinary process in the late 1960s was lower than one would have expected from a force the size of Victoria's; either the Force was exceptionally well disciplined or its management was lenient. Unfortunately, the issue was not explored further.

St. Johnston devotes seven paragraphs of his Report to corruption, and indicates that the scope of his inquiry did not allow him to ascertain whether corruption existed in the Force. He nevertheless commented on the factors he thought conducive to corruption. While he was satisfied generally with recruitment, training, processes for dealing with corruption and management commitment to corruption prevention, he was not satisfied that

**poor management and inadequate supervision
... (are) significant, current and ongoing
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members of the Force were adequately supervised in their work or that members were paid enough to remove them from 'more obvious temptations'. The issue of poor supervision is one of the common themes among commentators, thirty-four years on from St. Johnston's examination.¹⁶ As is seen later in this Report, poor management and inadequate supervision have been identified in numerous inquiries and commissions as significant, current and ongoing contributing factors in police corruption.

One of the outcomes from St. Johnston's inquiry was the institution of a Register of Complaints against members of the police force. The Report was one of a number of studies made at that time which signalled the beginning of a new era in 'organisational change, improved police salaries and work conditions and bountiful recruiting. (These studies) altered the course of the Force and, although many problems lay ahead, it was a turning point'.¹⁷

The Beach Inquiry

Despite stirrings of change within the Force, Dr Wainer remained committed to his crusade of uncovering corruption in the Victoria Police. In October 1974, he presented further allegations of illegal police behaviour to the Solicitor-General, Daryl Dawson. The government appointed Cairns Villeneuve-Smith, QC, to undertake a preliminary examination of the material provided by Wainer.

Subsequently, Mr Bary Beach, QC, was appointed to sit as a one-man Board of Inquiry to report whether there was 'any credible evidence raising a strong and probable presumption that any, and if so, which members of the Victoria Police Force' were guilty of criminal offences, breaches of Standing Orders, or 'harassment or intimidation of any member of the public'.

Beach's Inquiry lasted more than fifteen months. He began his work by advertising in the daily papers inviting information from the public. Deluged by responses, it was suggested by some that, 'until then, there had been no effective police complaints system. Mr Beach had found a previously untapped source of allegations'.¹⁸

In all, Beach received 131 complaints, but due to the mass of material, confined himself to the detailed investigation of only twenty-one of those complaints. He examined 240 witnesses and concluded his Inquiry by making adverse findings against fifty-five police

Beach found ... police would conspire and commit perjury ... and the existence of a 'brotherhood syndrome' whereby police at all levels would do whatever was required to protect workmates

against both known criminals and members of the public, in order to achieve their ends. He also found that police would conspire and commit perjury as necessary, either in court hearings or when appearing before him. His Report also identified instances of inappropriate use of informers, and the existence of a 'brotherhood syndrome' whereby police at all levels would do whatever was required to protect workmates.

In the final outcome, Beach made extensive recommendations for police procedural reform in areas such as the investigation of complaints and the interrogation of people under arrest. Beach was scathing about the complaint processes and the standard of

upon such matters as conspiracy, perjury, assault, unlawful arrest, corruptly receiving money and fabricating evidence. In essence, Beach found that police used high-handed, violent and illegal tactics

investigations existing at that time. The Report was especially critical of police investigating police and said 'the Board's inquiry into [specific incidents] established beyond doubt the undesirability of police investigating complaints against police'.¹⁹

Police response to the Beach Report 'provoked the most serious display of animosity since the police strike of 1923'. Four thousand two hundred men and women from a Force of 6,400 met at Festival Hall on 18 October 1976 to formulate a plan of resistance. They had not seen Beach's Report, they did not know what his recommendations were, and they did not know which police he had named and why, but they gathered in what the president of the Police Association, L. J. Blogg, described as 'the greatest demonstration of unity in the history of the Association'.²⁰

The meeting instituted a 'work to rule' campaign, but there were hints also of a strike threat. In the face of such massive industrial opposition, Premier Hamer accepted a series of demands from the membership.²¹ Among these was one specifying that, 'Any change in police procedures was to be the result of a conference involving the police department, the Police Association and the government and not made on any recommendations made by Beach'.²²

The Chief Commissioner's Office, generally most circumspect in criticism of public figures, said, 'We do not intend to comment at length on the conduct of the Inquiry; but there is little doubt that it degenerated into an adversarial duel between Counsel Assisting the Board and Counsel for the Police Association. The contest generated a widespread belief among police that the Inquiry lacked objectivity. Many police witnesses, in particular, believed they appeared as accused persons rather than as professionals assisting a responsible and impartial Board of Inquiry. Sensational and biased news reports, the behaviour of certain witnesses and a lack of sensitivity regarding confidential police documents (diaries and antecedent reports) added to police grievances'.²³

In the wake of the meeting, only thirty-two of the fifty-five police named by Beach were charged, none were convicted: thirteen faced disciplinary offences; none of the offences were found proven.

The Norris Committee

The substantial voice of police opposition to Beach made the government less than enthusiastic about his recommendations for procedural reform. A decision was taken to appoint a Committee of Review headed by the Honourable J. G. Norris, QC, a former Judge of the Supreme Court. The Committee, cautious in approach, modified Beach's recommended reforms.

Haldane criticises the police reaction, the more so because they were people trained to sift and analyse facts and reach logical conclusions. He contends that they 'did not think

or discriminate. Bonded instinctively by camaraderie and swept along in a whirlwind of rhetoric, they provided legal, financial and moral support for each other, regardless of the merits of the individual cases. The corrupt, unlucky and stupid – and all who came near those categories – were gathered together under one umbrella and sheltered'.²⁴

bonded ... by camaraderie and swept along ... they provided legal, financial and moral support for each other, regardless of the merits of the individual cases

Nevertheless, cautious though it may have been, the Norris Committee was instrumental in changing the police landscape, the catalyst for which was the

Beach Inquiry. Once again, meaningful reform to the Force was achieved by external influence.

The Role of the Victoria Police Association

As a result of the Beach Report, the Police Association underwent radical change. However, while it reshaped itself into a militant group with significant political clout, that influence had come at a cost.

Some sections of the community were extremely concerned by the depth and scale of the police reaction to legitimate criticism. Indeed, the *Age* described the police behaviour, orchestrated by the Police Association, as a 'gross over-reaction' and went on to say that 'in some of the heated harangues from police spokesmen never has there been the slightest

some sections of the community were extremely concerned by the depth and scale of the police reaction to legitimate criticism

admission that any policeman could be anything but perfect'.²⁵ As Haldane observes of this period in the

Force's history, policemen had displayed a 'collective assumption' that they were 'beyond reproach and above the law'. Yet, the Beach Inquiry had effectively galvanised the Association to ensure it was better able to protect its members from future inquiries or prosecutions. Their experience following Beach had shown that they could exercise true industrial power.

The Fighting Fund

The idea of a fund to defend members of the Force charged with offences arose from a writ issued at Mildura during the early 1960s. Two members, Wood and Lentin, had damages awarded against them for assault and unlawful arrest arising from a gaming matter. The Police Association believed the government should pay the damages on behalf of the two men. They had received information from a Royal Commission in the United Kingdom which recommended that government should be responsible for costs against police awarded as a consequence of acts committed in the course of duty. The matter seesawed between the Association, Chief Commissioner and the Chief Secretary for approximately two

years. In the event, funds were advanced to Wood and Lentin from the Police Provident Fund by the Chief Commissioner. Later still, the Government agreed to pay fifty per cent of the damages, and Wood and Lentin had to repay the Police Provident Fund.²⁶

Just as the mid-1960s saw the growth of inquiries into allegations of police misconduct, they also saw the Victoria Police Association become increasingly involved in the provision of legal assistance to its members. After the Wood and Lentin case, a practice had developed of providing defence funding for police facing 'counter-summons' (the practice of offenders charged by police issuing process against the arresting police officer) unless special circumstances made this undesirable. Generally, R. H. Dunn or expert counsel would be engaged for this purpose. The strategy was highly successful, with police not only winning many of these cases, but having costs awarded against the defence.

However, disciplinary hearings arising from the Mr 'X' allegations required large sums to provide counsel for those appearing before the Board. By September 1965, some 291 pounds had been spent in legal defence for that year and it was suggested that legal costs would double in the coming year.²⁷

By February 1966, the Association's Secretary, W. D. Crowley, wrote that 'recent disciplinary charges have highlighted the need for the Association to have some fairly firm policy on the question of financial assistance to provide defence counsel on disciplinary charges'.²⁸ The Association Executive decided there should be no general agreement to provide legal assistance; each case would be judged on its merits, and, where it felt that a member had acted reasonably, the best counsel available would be provided.

Mr Crowley concluded 'as we grow stronger financially we will undoubtedly extend our policy of procuring expert counsel to protect our members' interest, and we must be prepared to put forth our best and strongest efforts when 'witch hunts' are being conducted. However, we should not spend money in defending the odd offender whose dismissal would help make us a better police force'.²⁹

Like any union, the Victoria Police Association works hard to defend and improve working conditions for its members. Legal defence, a prominent consideration, was particularly significant as a consequence of the Beach Inquiry. While the very nature of police work demands strong protection for police facing allegations in the judicial arena, decisions about who receives legal defence and who does not is complex. On occasions, it has led to the anomalous situation where police accused of corruption or serious misconduct have received substantial legal support from the Association. By longstanding arrangement with the State government, the Association is reimbursed in all criminal trials where a police officer standing trial is acquitted. Within a month following the Association's call for a fighting fund in the face of the Beach recommendations, the fund had risen from zero to \$13,495.30.³⁰ Some measure of the balance brought to the Beach saga by Tom Rippon can be distilled from his comment at the time the fund was created:

Contrary to what some of the media would have the public believe, we do not intend to defend all members who are charged with criminal offences. It is intended to defend all counter-summonses, discipline board matters and all Magistrates' Court hearings where the member is charged over an accident arising out of the driving of a police car. Occasionally, we may have to defend a member who richly deserves to be charged because of this blanket policy but security for all must outweigh this disadvantage.³¹

In the event, the Hamer government acceded to demands made by the Association. These were:

- a. That no police officer will be presented for trial on any alleged indictable offence without the normal preliminary hearings in a Magistrates' Court;
- b. That a Crown Prosecutor review the properly admissible evidence available before any proceedings are instituted and that this review of evidence be conducted without reference to Mr Beach's recommendations and the recommendations for any charges be based on such evidence given at the Inquiry;
- c. That the onus of proof at the Discipline Board be proof beyond reasonable doubt and no lesser standard before any proceedings are instituted;³²
- d. That any change in police procedure be the result of conference between the government, the Police Department, the Police Association, and not based on Mr Beach's recommendations;
- e. That in view of the way the Police Inquiry was conducted the government pay the cost of all police officers not convicted following charges flowing from the Beach Inquiry;
- f. That the government accept total vicarious liability for its police members in the future; and
- g. That the Government just as vigorously prosecute any person whosoever may have given false evidence before the Beach Inquiry, or any other person who may have conspired to mislead the Inquiry.³³

At that time, the Premier advised the Police Association that it was government policy to:

- re-imburse the Police Association for the cost of successful legal defence of charges against police officers;
- indemnify police against costs and damages arising from actions performed in the course of their duties and where it appeared that the member had acted reasonably and in good faith or in accordance with instructions.

Premier Hamer was expressing the basis of previous agreements to provide legal support going back over many years. The State Treasurer, Mr Lindsay Thompson, reaffirmed the agreement on 9 March 1982. In 1984, the government and the Police Association were represented at a private arbitration before the President of the Industrial Relations Commission of Victoria in relation to a number of cases in dispute. The result of this arbitration was that the government would pay bills in dispute and the parties would negotiate a new agreement.³⁴

On 26 June 1985, the government and the Police Association entered into a new agreement for the government to reimburse the Association in cases involving successful legal defence of Association members in a variety of forums. The agreement also brought to life the Association's Legal Fees and Costs Reimbursement Committee.

Following a change of government in 1992, the incoming administration reviewed policy on the provision of indemnities for Ministers and Crown servants and agents and, in short, decided it would back away from the agreement with the Police Association. In August 1995, the Department of Justice and Victoria Police set up a working party to address the changes and develop new policy. The new direction was of particular concern to Force Command because, although it had not been a party to the 1985 agreement, it had now become responsible for reimbursing the legal costs.³⁵

Negotiations with the Police Association dragged on interminably because the Association saw no reason to move away from the 1985 agreement; the government and Force Command demanded a change. In an undated letter from the Police Minister to Association Secretary, Paul Mullett, Minister Bill McGrath gave notice that government would terminate the 1985 agreement on 1 July 1999. The government said it was not intended to erode the fundamental agreement of 1985 but was concerned with existing arrangements based on greater accountability and wanted to support the Chief Commissioner's efforts to enhance ethical standards. The clear, but unstated, message to the Association was that tension now existed between what was available in the annual budget for running the Force and what could be diverted from that budget to fund successful prosecutions against police. It meant that should there be too many prosecutions, particularly with successful outcomes, some area of the police budget was going to have to be cut.

While the Chief Commissioner had been asked to develop a new set of arrangements, the government accepted that there were aspects of policing which made police members more susceptible to becoming embroiled in legal proceedings and, for this reason, accepted the appropriateness of developing a set of discrete arrangements for police members.

The reassurances did nothing to hasten negotiation. Both sides agreed to continue meeting but neither was prepared to make any concession. The first deadline came and went and a second deadline for 24 July 1999 was set. However, further discussion failed to resolve the impasse. On 24 July 1999, the government unilaterally terminated the 1985 agreement. The Chief Commissioner of Police was directed to develop new guidelines in consultation with the Association. After the change of government in 1999, guidelines were again reviewed. The Labor administration agreed to replace the 1999 arrangements with a Memorandum of Understanding (MoU). Modelled on the 1985 agreement, it took into account changes, which had occurred in the interim, together with perceived deficiencies in the original agreement. The MoU covered only the successful defence of criminal charges: civil matters had become indemnified under amendments to the *Police Regulation Act*. Under the new agreement, responsibility for reimbursing the Association was transferred from Victoria Police back to government.

Chief Commissioner 'Mick' Miller 1977–1987

The appointment of Chief Commissioner Sinclair Imrie ('Mick') Miller, on 13 June 1977, accelerated the pace of change within a Force already changing after the St. Johnston Review. He had been made Assistant Commissioner (Operations) on the same day Reg Jackson was sworn in as Chief Commissioner. With Jackson and others, he worked assiduously at the implementation of the St. Johnston recommendations, and so was no stranger to change. With Jackson, too, he was helping guide the Force when the Beach Inquiry began, this time as Assistant Commissioner (Crime) and, subsequently, as Chief Commissioner. Miller was driven by a commitment to accountability. He believed in a philosophy of candour when it came to public transparency.³⁶

His high standards almost immediately created conflict with the Police Association. Matters came to a head when executive member, J. R. Splatt, moved a no confidence motion in the police administration.

One of Splatt's grounds for complaint on this occasion was the alleged 'lack of support by senior officers'.³⁷ This was at the root of the friction between Miller and the Association, and stemmed from Miller's belief that the Force was accountable to the community for its actions. His philosophy was simply that 'in a society which believes in the rule of law, nobody is above the law...where a member's conduct is clearly unsatisfactory, it is unrealistic to suggest that the member should be blindly supported'.

Although the Association moved a motion of no confidence over his procedural and administrative changes, Miller remained committed to change. Whilst the well-being of the Force and its people were ever in his mind, he always saw his paramount allegiance being to the community.³⁸

Like Duncan before him, Miller could abide neither dishonesty, nor systems that protected it. During an interview conducted for this Report, he gave an example of his frustration in dealing with corrupt conduct and inept systems: once he had attended the Dawson Street police complex in Brunswick. By chance, he found a member putting petrol into the tank of his private motorbike from the police bowser. In due course, the member was charged and appeared at court where he was convicted by the Magistrate. The member's barrister told the Magistrate the conviction could result in his dismissal from the Force, and the Magistrate placed him on a good behaviour bond. He was then arraigned before the Police Discipline Board that also found against him, and dismissed him from the Force. The offender appealed to the Police Service Board, which reinstated him. On his return to the Force, he was posted to the Missing Persons Bureau, where he became a malcontent. He took sick leave and, in due course, was boarded out, medically unfit on the grounds of 'management-induced stress.'

While continuing the reforms proposed by St. Johnston, Miller ensured that the voice of Victoria Police was heard at the Australian Law Reform Commission (ALRC) established in 1975. Under the Chairmanship of Justice Michael Kirby, the ALRC instituted numerous inquiries touching on police procedure and practice, many strands of which had been raised

Inquiries and Royal Commissions

Since the 1960s, Royal Commissions and Boards of Inquiry in Australia have reported on significant patterns of organised crime within the community, as well as entrenched and systemic corruption with local police forces. Despite jurisdictional differences, there are obvious similarities both in the nature of the corrupt behaviour and the solutions proposed to control it. In particular, the work of the Moffitt, New South Wales (1973–1974), Woodward, New South Wales (1977–1979), Williams, Canberra (1977–1979) and Costigan, Canberra (1980–1984) Royal Commissions and the Connor Board of Inquiry into Casinos, Victoria (1982–1983) were searchlights revealing what hitherto had been a formidable but shadowy force in Australia. Each inquiry identified various levels of corruption affecting police and other public officials.

Organised crime and police corruption generally go hand in hand, due mainly to opportunity and to the availability of huge sums of money. Opportunistic police in the right place at the wrong time can easily be seduced by theft, bribery, sexual favours, drugs and

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other forms of corruption. At the foundation of major crime and corruption is an abdication

of personal responsibility. These inquiries have shown that criminals engaged in organised crime deliberately, and systematically, set about recruiting and corrupting a range of public office-holders at all levels on the basis of developing potential leverage for 'the business'.¹ This maintains and extends the wealth and power of organised crime.

The work of Lusher, New South Wales (1979–1981), Wood, New South Wales (1997), Fitzgerald, Queensland (1989), and Kennedy, Western Australia (2002) concentrated on problems of long-standing corruption in the police forces in their respective states. While there has been no such inquiry into Victoria Police since the Beach Inquiry (1975), the risk of corruption is ever-present, as the Ombudsman's Reports on the Ceja Task Force (Drug Related Corruption, 2003 and 2004) clearly demonstrate. Moreover, as shown elsewhere in this Report, instances of lazy, dishonest and corrupt police practices have regularly been reported by daily newspapers both before and after Beach.



Although not the focus of this study, it is noteworthy that during the same period there have been significant inquiries into police malpractice in other jurisdictions. In 1972, the City of New York established the Knapp Commission into Police Corruption. In 1992, it was followed by the Mollen Commission, because the lessons from Knapp had ceased to have any effect.²

Similar problems arose in the United Kingdom. The McPherson Inquiry (1999) found that the reason for the poor result obtained from the investigation into the murder of a black student was a combination of professional incompetence, institutionalised racism and a failure of leadership. As a result, a White Paper on police reform was published in 2001. It contains initiatives for raising police standards to an acceptable level, tackling under-performance, and introducing a range of improvements to police resources and working conditions.

The report of the Independent Commission on Policing for Northern Ireland (Patten Inquiry, 1999) also deals with issues aimed at improving police services to the community, accountability and the culture and ethos of policing in Northern Ireland. This Report provides

actual and potential corruption exists in every force; it must be treated as the systemic problem it has always been

period covered by this study, corruption has become better understood, and so have ways of dealing with it. Often, police management has been reluctant to face external criticism, but now it is accepted that actual and potential corruption exists in every force; it must be treated as the systemic problem it has always been.

Solutions to corruption involve major changes to culture, structure and process and should not be restricted merely to an investigative or disciplinary response. Any consideration of the links between organised crime and corruption must include the conditions that allow the former to occur.

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one-dimensional approach which purports to 'fix' the police problem will never be successful without also addressing the nature of opportunities that facilitate corruption; any treatment of symptoms can be no more than palliative if the underlying cause is not identified and dealt with.

Police forces have to demonstrate responsible leadership; they must be intolerant and unforgiving of corrupt activity; they must demonstrate a relentless commitment to ridding the force of those who would bring it into disrepute; and they must be vigilant and find innovative ways of building resilience to corruption. Greater accountability has followed the use of external and independent oversighting 'watchdog' bodies. These encourage police management to maintain its focus on corruption prevention, detection and reform long after the impetus delivered by a 'one-off' independent inquiry has passed.

a general overview of facets from some of these inquiries that are relevant to corruption in Victoria. In the

Government decisions to regulate tax, or prohibit certain goods and services create opportunities for organised crime to exploit. A

The Moffitt Royal Commission 1973–1974

In 1973–1974, Mr Justice Moffitt chaired a Royal Commission to examine the penetration of registered clubs in New South Wales by organised crime, and to look especially into allegations concerning gambling in those clubs. Moffitt saw Australia as a likely target for infiltration by organised crime from the United States. Some Australian businesses were claimed to have close connections with American organised crime groups, and allegations were being made of high pressure and corrupt methods being employed to expand those businesses in Australia.

He found evidence of a police 'cover up' in an investigation into this behaviour and warned that 'one of the weapons of organised crime is corruption of officials, particularly those, such as police, charged with investigating organised crime'.³

Despite finding little hard evidence, he accepted the presence of organised crime in the community, and found existing law enforcement inadequate against the threat. He identified the need for improved investigation techniques, and suggested effective intelligence systems to identify 'targets' that would be investigated using 'task forces'. He also called for greater cooperation between Australia's law enforcement agencies.

The Woodward Royal Commission 1977–1979

The Woodward Royal Commission was appointed to inquire into the illicit drug problem in New South Wales,⁴ prompted by (among other things) the public perception of a growing drug menace involving large-scale importation of illegal drugs, and the cultivation of substantial commercial crops of marijuana in various areas of country New South Wales, including Griffith. There were sudden and curious increases in the wealth of alleged growers, and on 15 July 1977, anti-drugs campaigner, Donald Bruce Mackay, from Griffith disappeared.

These and other things created media calls for an inquiry into the 'drug problem' based on reports of the involvement of a secret criminal organisation. The Commission presented a detailed picture of widespread, organised, drug-related crime in New South Wales, involving cannabis, heroin and other substances; it also detailed the social problems caused by drug abuse. The movement of organised crime into the drug trade was confirmed, showing the great wealth generated in these activities. The illicit operations were described in detail. The Commission went on to make a critical appraisal of drug law enforcement technique, and suggested improved methods for attacking the drug trade.

Even though its existence had been raised in Victoria years earlier, Woodward's inquiry confirmed that the 'The Honoured Society' was active in Australia, and was involved in extortion, drug trafficking, the market murders of Melbourne in 1964 and other forms of crime. Woodward also confirmed that a cell of the 'Society' had operated in Griffith, New South Wales.

The Commission concluded that Mackay was dead, and that the Honoured Society was responsible for his death. A corrupt link between certain members of the New South Wales Police and the Society was established, and accusations levelled against certain detectives for covering up the activities of local criminals for dishonest motives.

In March 1984, New South Wales Police told the MackKay inquest that Robert Trimbole, formerly of Griffith, had ordered MackKay's execution. Trimbole had contacted a criminal associate, Gianfranco Tizzone, in Melbourne. Tizzone was said to be a drug trafficker and police informer. Tizzone contacted a Melbourne gunsmith and patron of the Police Pistol Club, to hire a 'hit man'. Allegedly, they recruited painter and docker James Frederick Bazley to do the job. Bazley and Tizzone were later convicted of the murder of MackKay and drug couriers Isabel and Douglas Wilson. Trimbole left Australia for Ireland. Irish Courts refused his extradition.

The Williams Royal Commission 1977–1979

By 1977, public concern about the impact and potential of the burgeoning drug trade throughout Australia prompted Prime Minister Fraser to authorise a national Royal Commission into Drugs.⁵ The Chairman was Mr Justice Williams. The wide-ranging terms of reference enabled the Commission to conduct an exhaustive examination of the unlawful drug trade, and to deliver a comprehensive report on the 'industry'.

Like his predecessors, Williams found that organised criminal activity did exist and was flourishing. Not only that but, in his view, the criminal law was ill-equipped to grapple with it. He

corruption did not dwell solely around the drug trade, but was also found more generally throughout various facets of criminal law enforcement

also acknowledged the presence of widespread police corruption linked to the illicit drug trade. This behaviour was not confined to any one state but extended across the

nation. Moreover, corruption did not dwell solely around the drug trade, but was also found more generally throughout various facets of criminal law enforcement.

Williams found it significant that some police witnesses had expressed concern about other police and that these concerns 'affected their ability to perform their duties efficiently because they were reluctant to entrust information to certain officers or segments of their force or to another force and, in some cases, positively declined to do so'.

In his view, allegations of corruption levelled against police were best dealt with by a frank recognition of the existing opportunities and temptations and the likelihood that, on occasions, they will be taken advantage of. He considered that police forces generally were becoming more aware of the necessity to respond to corruption allegations and were able to investigate and deal effectively with them. He said:

Speaking of the necessity for police to act against corrupt behaviour, it is...essential that the overwhelming majority of honest police are ever-vigilant to stamp out such practices as soon as they commence. This will be far more effective than allowing the matter to escalate to a stage where action is finally taken against the person guilty of malpractice. The police attitude at command level and indeed the ministerial level must not be the conventional public relations exercise piously stating all is well; it should show it is actively interested in assisting people outside the Force who wish to make a complaint against police in the formulation

and investigation of the complaint. The attitude of command to the Force must be that small abuses of power and petty breaches of regulations are not considered lightly. It is small departures from duty for what appeared justifiable reasons that later lead to gross dereliction of duty.⁶

Williams accepted the necessity of having 'police investigate police' because of their experience, contacts and skill, but he also endorsed the desirability of having an independent body to monitor the investigations. In this sense, Williams' approach to tackling police corruption embraced a process of continuous improvement. 'Police forces must carefully consider and constantly review operational organisation and practice with a view to not only minimising the possibility of corruption, but to ensuring that any suggestions of corruption can be effectively dealt with.' He warned that no police force should be complacent about their anti-corruption measures, but should constantly seek to improve them.

The Lusher Inquiry 1979–1981

During the 1960s and 1970s, New South Wales Police were the subject of an ongoing series of allegations that its members had been involved in corrupt activity. Evidence emerged demonstrating that police at almost every level of the Service had been involved in organised crime and its protection.

A group of police whose power base was within the CIB and its various squads orchestrated the corruption. Their influence extended to the Police Association and the media, and through their connections, they had little to fear from corruption investigations. Senior management was seen as being either too corrupt or too inept to take the necessary remedial action.⁷

The inability of the Service to reform itself led to the appointment of a Royal Commission, chaired by Justice Lusher.⁸ Tasked with inquiring into the administration of the Force, he found that the extent of corruption pointed to serious management deficiencies, the absence of proper procedures to deal with corruption, and responses that concentrated on individual offenders rather than confronting wider institutionalised corruption.

Changes introduced in the wake of his report included regionalisation, a flattening of the command structure and attempts to change the police culture and to promote integrity. Community-based policing was adopted as the principal operating strategy. Training and recruitment were restructured amongst a range of anti-corruption measures. The Ombudsman's powers were also extended to enable oversight of complaints against police.

It was not until 1987 that major restructuring of the Service took place, with the establishment of four police regions. Centralised police squads were devolved and geographically based patrols instituted.

The most dramatic change was the dismantling of the CIB and movement of detectives to four Regional Crime Squads and new patrols. It was hoped this move would end the cycle of corruption. Instead, as the work of the later Wood Royal Commission would demonstrate, all that this initiative achieved was to spread the problem across the State.

The Costigan Royal Commission 1980–1984

The Commonwealth and Victorian State Governments established this Commission to inquire into whether the Federated Ship Painters and Dockers Union had engaged in illegal activities in relation to shipping.⁹ Frank Costigan, QC, went on to demonstrate that the Union was little more than an organised crime gang. He also uncovered other widespread networks of corrupt activity extending across the nation. His seminal work confirmed that organised crime was entrenched and expanding in Australia and that traditional law enforcement methods were inadequate to eradicate it. Costigan advocated new, groundbreaking techniques to overcome the 'wall of silence' inevitably encountered during investigations of this kind.

While his report contains little direct reference to police corruption, he identified widespread organised crime in areas other than drug trafficking, and noted the connections between organised crime and police corruption, confirming the findings of previous Royal Commissions. His findings reminded authorities of the dual difficulties confronting them.

Costigan noted interesting links to past events. For example, despite the work of the Martin Royal Commission in 1958, there remained a vast network of SP bookmakers operating both in Victoria and around Australia. Immense sums of money were involved and it was alleged that State police were taking bribes to facilitate the continuance of the illegal activity. By this time, Victorian Chief Commissioner Miller had established Zebra Task Force that confirmed the corrupt relationships between SP bookies and telephone technicians.

The Stewart Royal Commission 1981–1983

Prime Minister Malcolm Fraser established a second Royal Commission into drugs in 1980 because of public concern that existing law enforcement agencies were failing to cope with the activities of major drug traffickers.¹⁰ The Stewart Royal Commission was established following a Victorian Coroner's findings on the murder of Douglas and Isabel Wilson, whose bodies were found in shallow graves at Rye (Victoria) on 18 May 1979. The Wilsons had been killed as punishment for informing the Queensland police about drug trafficker Terence John Clark.

Clark claimed informants in one or more of the Australian law enforcement agencies, including the Bureau of Customs, and used information from them to avoid capture. Clark also claimed he was told about the associates who had told police about him. At the Wilson inquest in 1980, the Coroner found that Clark had organised large-scale drug importations to Australia from Asia, and that 'organised crime and corruption ran rampant'.

The Coroner forwarded a copy of the evidence to the State Attorney-General with a view to having the matter investigated, thus prompting Stewart's inquiry. After a lengthy probe, Stewart was satisfied that certain law enforcement officers were committing criminal offences. He was disturbed that so many allegations had been made. 'Indeed there is no reason to believe that corrupt practices of this kind are restricted to drug matters. There is in fact every reason to believe that organised crime of all kinds depends in part upon the availability of these corrupt practices.' Stewart found cogent evidence that Commonwealth and State officers had engaged in corrupt practices in relation to the deaths of the Wilsons.

The Commission also found considerable evidence that organised criminal activity occurred in Australia and, like its predecessors, recognised its potential for corruption. 'Apart from facilitating mobility and power, cash resources allow organised crime to corrupt others in order to protect and further its activities...the most vulnerable public officials in these situations are those charged with investigation and prosecution of the crimes involved.'

Stewart drew attention to the inadequacy of existing complaint systems against corrupt police. Reliant on the receipt of complaints from the public or other police, existing systems were ineffectual when it came to the type of 'victimless' crimes typically associated with prostitution, gambling or drugs, where police corruption was evident. Seeking guidance abroad, Stewart

reliant on the receipt of complaints ... systems were ineffectual when it came to the type of 'victimless' crimes ... where police corruption was evident

found that, like Australia, similar weaknesses existed in the English complaints system. But the English had proposed a solution: the establishment of a permanent cadre of investigators

comprising mixed teams of appropriately skilled people, including some police officers, dedicated to this type of work. Sir Cyril Phillips, Chairman of the Police Complaints Board in the United Kingdom, warned that because present arrangements had failed to come to grips with police corruption it was 'no longer possible to avoid the necessity for an independent external agency'.

Stewart conceded that police corruption could at best be controlled and never eradicated; the difficulty lay in developing controls that were effective. He made a number of recommendations for change, including the creation of an independent body, an Inspectorate of Australian Police Forces, with a specific charter to root out corruption. In Stewart's view, a good inspection system, ruthlessly and efficiently applied, would go a long way to controlling police corruption. 'A great virtue of such an organisation would be its ability to listen to the lower ranks of the police, during formal or informal inspections, hear their complaints and make a fearless report. Against this background, senior officers would tend to take a greater interest in supervision as they would be concerned that something might be disclosed.'¹¹

Other recommendations included insistence on command responsibility and accountability; the provision of high-quality training for police, and better recruitment procedures; ethics training and proper police behaviour; frequent interchange of police working in high risk areas, and the ruthless pursuit of corruption within police forces, including the charging of police officers whenever sufficient evidence is found.

The Neesham Inquiry 1982–1983

In September 1982, the Victorian Ministry for Police and Emergency Services appointed a Committee to 'advise upon the capacity of the Victoria Police Force, in terms of structure, procedures, personnel and equipment, to:

- fulfil its organisational philosophies;
- achieve the objectives of government;

- respond to the needs of the community; and
- maintain a high standard of efficiency in a situation of likely continued limitations on the availability of resources.¹¹²

Mr T. A. Neesham, QC, who had been Deputy Ombudsman and was later to be appointed County Court judge, chaired the Committee. At the time of their appointment, 'the public complaint process was excluded from the Committee's Terms of Reference because it was the subject of discussion between the Ombudsman and the Ministry'. But in June 1983, the Minister requested the Committee to 'conduct an urgent review of 'the procedures adopted in maintaining internal discipline within the Force'. The adequacy of the Bureau of Internal Investigation, the constitution and role of the Police Discipline Board and of the Police Service Board and the powers of the Chief Commissioner were specifically mentioned.

In their introduction to the review of the disciplinary system, the Committee noted the paramountcy of discipline to effective organisational functioning; its purpose in developing self-control and fostering orderliness and efficiency; the temptations to which police could be subjected – as they typically worked alone or in pairs with a minimum of direct supervision – and the importance for internal disciplinary procedures to have the confidence and support of the public while also maintaining the morale, self-esteem and initiative of members.

The Committee examined disciplinary procedures both within the Force and elsewhere, and found there was a 'need for balance between the requirements of a strong and effective police organisation and the unassailable fact that individual police officers should, as far as possible, have the same rights and privileges as other members of the community'. At that time, the Committee was of a mind that a coherent disciplinary system did not exist. It went on to make the following comment:

The Force has entered an era which could not have been envisaged by those who drafted the 1946 amendments to the Police Regulation Act which so limited the Chief Commissioner's authority in matters of Discipline. They could not have imagined that the Chief Commissioner's decisions, albeit circumscribed, could be the subject of Supreme Court writs and other challenges. They could not have envisaged the temptations facing police officers in their daily duties that have been revealed by the Stewart Commission and other inquiries. They would never have believed that a police constable could refuse to answer work-related questions put to him by an Officer of Police and escape sanction. The Committee's recommendations attempt to redress the imbalance and provide the Chief Commissioner with workable authority while protecting the rights of each and every member of the Force.

The Committee then set out seven points that it considered should underpin a formal discipline code. These included publication of disciplinary procedures advice about sanctions, protection from false allegations, pursuit of the discovery of truth about matters, public redress, public confidence in, and accountability of, the system and need for an appeal process independent of the Force.

The Committee made recommendations on matters of suspension, probationary periods, complaint investigation, discipline hearings, the Chief Commissioner's powers and some miscellaneous matters. These included internal publicity about the positive role of discipline, the monitoring role of the Ombudsman, ill-health retirements, a need for the Police *Annual Report* to detail disciplinary statistics, time limits for offences, the standard of proof in disciplinary matters (a civil standard of proof was considered appropriate) and amendments to the Police Regulations.

In spite of comprehensive consideration of the Chief Commissioner's powers, and a variety of circumstances in which it had been difficult to dismiss members who no longer were regarded as an asset to the Force or to the public (as policemen), the Committee did not support dismissal powers being given to the Chief Commissioner. The principal reason appeared to be that 'police officers...are entitled to a degree of protection especially having regard to the relative ease with which they can become the victims of complaints'.

The Report found that the system of conducting complaint investigations had a negative effect on working relationships in the regions, and that complaint investigations lowered Force morale generally. The Report also found that if the Internal Investigations Department (IID) took over investigations into serious matters, the regions would have a more manageable task in respect of investigating minor matters, which tasks could be delegated to experienced Sub-officers. It also recommended the creation of small investigation groups at regional headquarters that would report to the region, not to the IID. This recommendation was unacceptable to Victoria Police which saw it as unnecessary due to the strengthening of the IID, and the subsequent creation of the Police Complaints Authority.

In all, because of its more general terms of reference, the Neesham Committee made some 220 recommendations touching upon numerous areas of the Force. A considerable number of the recommendations were implemented but others were not. In general terms,

arguments for dismissal powers to be vested in the Chief Commissioner waxed and waned

the overall effect of the Neesham Review was a positive one for the Force. One particularly useful practice was the requirement to report each year upon the progress of implementing

the various recommendations to the Minister. It was an effective method of ensuring that good ideas did not 'just slip off the plate'. Arguments for dismissal powers to be vested in the Chief Commissioner waxed and waned, and those powers eventually were reinstated under Chief Commissioner Neil Comrie in 1993.

Board of Inquiry into Casinos 1982–1983

In 1982 the Victorian Government constituted (Francis) Xavier Connor, then QC, to be a Board of Inquiry, to report and make recommendations upon whether a casino or casinos should be established in Victoria.

His consideration included organised crime because he recognised that gambling was a favourite target, and that casino gambling was particularly vulnerable for exploitation because of the vast numbers of unrecorded cash transactions. Connor sought to establish the breadth

and depth of organised crime in Victoria, to learn about the milieu that casinos would be entering, as well as their prospects for commencing and remaining free of organised crime.

He took evidence on this from Fred Silvester, an Assistant Commissioner of the Victoria Police and Director of the Australian Bureau of Criminal Intelligence. Silvester advised the Board there was a great deal of organised crime in Victoria, much of it having interstate and overseas links. For example, illegal bookmaking had an estimated annual turnover of \$1,000 million. In spite of the efforts of both the Gaming Squad and Task Force Zebra, the bookies had ready access to telephone services through corrupt Telecom employees whose conduct hampered police efforts.

Connor recognised that organised crime could not flourish without corrupt police or without corrupt public officials operating at high levels on regulatory bodies. Silvester gave evidence of a good deal of this form of corruption in Victoria, and, when asked: 'Are we winning at the moment against organised crime or moving back?' Silvester responded firmly, 'Moving

much organised crime could not exist unless there was involvement by some members of police forces

backwards'. Deputy Commissioner J. R. Hall of the Victoria Police, who added, 'We cannot escape the fact that much organised crime could

not exist unless there was involvement by some members of police forces and other law enforcement agencies'.¹³

A Quarter to Midnight

Although the work of Moffitt and his successors had presented the Australian public with overwhelming evidence of the threat posed by organised crime, the general lack of public knowledge and debate about the subject caused him such concern that in 1985, he published a book entitled *A Quarter to Midnight – The Australian Crisis: Organised Crime and the Decline of the Institutions of State*.

In it, he described how organised crime and corruption had spread across the nation and developed international links. According to Moffitt, the problem was not only that organised crime was here, but also that not enough was being done to grapple with it. In his opinion, there was a strong possibility that if firm action was not taken immediately, the problem would be ineradicable, and could compromise the integrity of the State.

He stressed that organised crime and corruption went hand in hand because the organs of State had to be corrupted for organised crime to flourish. The police were only one of many targets among those engaged in the administration of justice and government departments generally. Moreover, organised crime had the ready wealth to achieve corruption.

Moffitt pointed out that both the Australian public and their political leaders had to understand that organised crime involved with drugs, and organised crime involved otherwise are interdependent. 'While we do not do what we ought, the drug trade and organised crime generally continue to flourish and expand and the wealth and power of

those involved grow'. For Moffitt, it was of critical importance that any attacks on organised crime address the issue of police corruption, 'whatever else may be required, the fight must be lost unless the police are honest and able to work together'.

Moffitt also referred to an inquiry commissioned by US President Johnson in 1967, which linked the growth of organised crime to the corruption of officials in which it was said that: 'All available data indicate that organised crime flourishes only where it has corrupted local officials. Neutralising local law enforcement is central to organised crime's operations. What can the public do if no one investigates the investigators and the political figures are neutralised by their alliance with organised crime?'

The Fitzgerald Inquiry 1989

In 1987, following a series of articles in the *Courier Mail* about the police in Queensland, and then the national televising of Chris Masters' program 'The Moonlight State' on the ABC's *Four Corners*, Queensland's Acting Premier Gunn announced an inquiry.¹⁴

Although the general expectation was that here was yet another political device to relieve pressure on the government, the inquiry successfully unmasked widespread corruption in the Queensland police, particularly embracing gaming and vice. It was revealed

the real value of this inquiry lay ... in the improved structures and systems developed to overcome corruption

that corruption extended to the very leaders of the police force, and tainted some politicians. In time, criminal prosecutions were launched against some of those involved, and sweeping measures were recommended to minimise opportunities for future corruption. Former Police Commissioner, Sir Terence Lewis, was convicted of taking bribes and sentenced to 14 years in prison. The real value of this inquiry lay not so much in netting the corrupt, but in the improved structures and systems developed to overcome corruption, which led to a rebuilding of the police force. An Electoral and Administrative Review Commission and Criminal Justice Commission were established to carry on the business of reform and to decide what specific reforms should be made.

The drastic action was required because corruption had become so deeply embedded in the heart of the police. Generations of men had been moulded into accepting corrupt systems and responded either by joining in or by learning to work around it.

The ranks of the corrupt held talented, intelligent and ruthless men who grouped together as an elite unit. Holding positions of power and influence, they controlled the systems of accountability. As a result, self-assessment and self-regulation had failed. Corruption continued unchecked because there had been no opportunity for external appraisal and criticism.

Positive internal checks were overwhelmed, subverted or simply ignored. The corrupt distorted acceptable traits such as loyalty and perverted the benefits of esprit de corps. In the end, significant numbers of corrupt police actively worked to perpetuate a system of

misconduct and contempt for the criminal justice system. Fitzgerald also identified a police code that meant a different standard for enforcement of the law if the subject were a police officer. This informal, and quite unlawful, policy effectively placed police beyond the law, thereby

the ranks of the corrupt held talented, intelligent and ruthless men who grouped together as an elite unit

eliminating concern about possible apprehension and punishment. While the strength and extent of this culture was attributed to the power and

influence of a police elite, it took hold with passive acceptance of the situation by the honest majority. It was further strengthened by the systems and structures that introduced police into the Force. It was then consolidated by the manner in which the Force selected its leadership. The corrupt had devised and implemented a malignant succession plan.

Other factors allowing continuance of misconduct and corruption included outright rejection of external criticism or internal dissent; an antagonistic and hostile attitude by the police union, which opposed any notion of corruption investigations; failure of the Force Internal Investigations section; the influence of organised crime and the use of its huge profits to corrupt police and others in justice administration.

To turn this situation around, Fitzgerald identified avenues towards improvement, including a need to penalise police who failed to report illegal activity or misconduct and a need for improved standards of recruitment and training, including rigorous background checking and psychological testing to identify the personality types which would resist the current culture. Fitzgerald predicted that in spite of broad public exposure to the findings of his Inquiry, 'innovations will be sterile and impotent if attitudes do not change. If the community is complacent, future leaders will revert to former practices'.¹⁵ Police themselves also had to recognise that checks and balances and changes in attitude were necessary if the activities of the corrupt were to be detected.

The Mollen Commission 1992–1994 (US)

The Mollen Commission¹⁶ investigated the nature, extent and causes of police corruption in the New York City Police Department; it also examined the Department's competence and commitment to preventing and detecting corruption. The inquiry illustrates the universal nature of both the causes of and solutions to police corruption, with many lessons for Victoria.

While the Commission found that although most police were honest and hard working, there was corruption among police in relation to theft, robbery, drug stealing and extortion. These unlawful acts bloomed in parts of the city not only because of opportunity and greed, but also because of factors such as complacent supervisors who failed to maintain a watch on integrity, fearing the consequences of a corruption scandal more than corruption itself. Commanders responsible for fighting corruption failed to enforce the principle of accountability, because of the emergence of an 'us vs. them' mentality between some parts of the community and the police, and because for years the New York City Police Department abandoned its responsibility to ensure the integrity of its members.

Once again, loyalty and trust, attributes which the Commission saw as vital to the promotion of effective and safe policing, had been prostituted to a sort of group loyalty which had prospered at the expense of the officers' sworn duty, thus making allegiance to fellow officers (even corrupt ones) more important than allegiance to the Department and community.

The existing corruption controls had been introduced by the 1972 Knapp Commission which investigated police corruption and revealed widespread, systemic corruption. It divided responsibility for tackling corruption between local commanders and a centralised Internal Affairs Division. The concept was simple: local commanders could be responsible for fighting corruption in their own local commands. The system relied exclusively on the police manager's commitment to integrity rather than on institutional oversight. Once public attention and Departmental priorities shifted elsewhere, the Department's interest in controlling corruption began to wane.

The Mollen Commission concluded that the New York City Police Department should remain responsible for effectively policing itself, and for keeping its own house in order. To do this, the Department required effective internal corruption controls. The Commission also required the Department to develop improved recruitment systems, in-service performance evaluations and to introduce integrity training.

There was a belief that it was impossible for the Department to bear this responsibility alone. It was seen as being subject to powerful internal pressures to avoid the disclosure of corruption and, in the absence of external scrutiny, established attitudes were likely to prevail. There was required a truly independent oversighting monitor, outside the Department's chain of command, that would exert continuing pressure on the Department to purge itself. The monitor was seen as requiring its own investigative capacity to successfully conduct audits of the Department's internal controls.

The Wood Royal Commission 1994

The Wood Royal Commission was established in 1994 to inquire into the workings of the New South Wales Police Service and the nature and extent of corruption in that Service.¹⁷ Its work retraced familiar ground. Significant systemic and entrenched corruption involving a wide range of criminal behaviours by police was revealed. This conduct was supported by a negative police culture described as the 'enemy within' – it thrived on greed and valued allegiance to colleagues, even those who were corrupt, above loyalty to the police service. Dependent on group loyalty and a tradition of mateship and peer pressure, it

dependent on ... loyalty ... mateship and peer pressure ... this malign culture persecuted any who broke the 'code of silence'.

gave its adherents little reason to fear exposure. This malign culture persecuted any who broke the 'code of silence'. Loyalty is a strong and positive quality, but it needs to be directed to the benefit of the organisation and the community, not to a shadowy world of infamy. The police denied its problems. However, commencing at the highest levels, institutionalised corruption was found. The disciplinary

process was inadequate, and the internal investigation capacity lacked tangible effect. Serious corruption had escaped notice or gone unchallenged. Even so, like the Mollen Commission, Wood found cause for optimism. There were many honest police providing a service in conditions that could be dangerous and demanding. Commissioner Wood concluded that:

*with an appropriate change of culture, the establishment of leadership which places integrity and professionalism above all, the institution of an anti-corruption plan which existed in action rather than word, and the creation of an external agency with the capacity and will to fight serious misconduct, public confidence and a true sense of vocation in the Police Service could be restored.*¹⁶

A wide-ranging series of solutions were proposed to transform the New South Wales Police Service, including new management and employment standards; changes to education; training; and professional development. The Commission recognised the critical importance of education, and of corruption prevention strategies. It noted deficiencies in the complaints and discipline system, and advocated moving away from the formal adversarial procedures to a more managerial mode, whereby commanders at patrol level would deal with complaints and matters of discipline.

Crucial to success was acceptance of the need for change. Police had to demonstrate they were open and honest, and that they shunned corrupt practices. Similar lessons were learnt from the wide-ranging investigation of the Rampart Area Corruption in the Los Angeles Police Departments in the 1990s.

The Rampart Area Corruption Incident (US)

In late 1997 and early 1998, members of the Los Angeles Police Department (LAPD) working in the Rampart area of the city were identified as suspects in three serious criminal offences: a bank robbery, the false imprisonment and beating of a person who had been arrested and handcuffed, and the theft of three kilograms of cocaine from the LAPD Property Division. Investigations showed that the offenders were closely associated as either work partners or friends. In time, Rafael Perez, the officer implicated in the theft of the cocaine, offered to enter a plea of guilty and provide information on the other Rampart officers in exchange for a reduced penalty.

Perez's information revealed a much deeper level of corruption than had originally been suspected. Innocent people had been framed, convicted and imprisoned. Subsequently, Police Chief Bernard C Parkes convened a Board of Inquiry to assess the extent of police corruption in the Rampart area.

The Board released a report in March 2000.¹⁶ It concluded that incidents had occurred because a few individuals had decided to engage in blatant misconduct and, in some cases, criminal behaviour. Their misconduct was made possible by the failure of LAPD and its management team in Rampart to exercise vigorous and co-ordinated oversight of police operations in the area, in particular of the CRASH Unit (CRASH was an LAPD acronym for Community Resources Against Street Hoodlums). If management had been more

effective, the crimes and misconduct that had occurred may well have been prevented, discouraged or discovered much earlier. The personal integrity of certain officers had become eroded and their activities had infected those around them. The LAPD believed that it had to learn from the experience and establish systems to prevent and detect similar patterns in future. The Board's recommendations covered eight main areas:

- Testing and screening police officer candidates;
- Personnel practices;
- Personnel investigations and the management of risk;
- Corruption investigations;
- Operational controls;
- Anti-corruption inspections and audits;
- Ethics and integrity training; and
- Job-specific training.

The pressing need for attention to these aspects of policing has emerged from several other inquiries including those in Victoria. Specific matters include lack of uniform standards for recruitment to the police force; poor personnel evaluation; limited capacity to capture all relevant personnel data to inform personnel and promotion decisions; and clear patterns of conduct being undetected.

In its consideration of operational controls, the Rampart Board of Inquiry conceded that many of the problems it discovered were a consequence of officers failing to follow established LAPD procedures. The impact of this failure was compounded by a failure of supervisors and managers to oversee their work. Staff knew that the chance of anyone detecting non-compliance was negligible, and this gave opportunity for them to take dangerous shortcuts.

The Board identified the need to revitalise and reinforce core values among its employees so that each of them understood their responsibility to uphold the integrity of the LAPD. Training was required about some less routine procedures and special training was required for people promoted to supervisory and mid-management ranks.

The Report also commented on the need for Chiefs of Police to retain full authority and responsibility for the discipline of employees and that they must be fully accountable for the exercise of that authority.

At the heart of the Board's findings was a conclusion that the problems of LAPD began with its failure to instil a standard of excellence throughout its ranks. In the preface to the Report's Executive Summary, the Board referred to a comment by Captain Ross Swope of the Washington DC Metropolitan Police Department in an address to a Department of Justice Symposium on Police Integrity in 1996. He said 'The major cause in the lack of integrity in American police officers is mediocrity'. Captain Swope said that mediocrity stemmed from the failure to hold police officers responsible and accountable. It came from

a lack of commitment, laziness, excessive tolerance and the use of kid gloves. He put the view that American police employees could be grouped into three broad categories: high achievers who applied core values such as prudence, truth, courage, justice, honesty and responsibility; those who occupied the middle ground; and those with few of the values held by the high achievers. The extent to which those at either end of the scale influenced those in the middle group depended on supervisors and middle managers. Theirs was the daily and ongoing responsibility to ensure that appropriate workplace standards were maintained. Higher-level managers were responsible for ensuring that the proper standards were maintained among their subordinate commands.

The Board found that the answer lay not in 'new programs or approaches to police work but in the scrupulous adherence to existing policies and standards, the ability to detect any individual or collective pattern of performance which falls short of that expectation and the courage to deal with those who are responsible for those failures'. This assumes that the correct policies and standards were adopted in the first place.

The Board's report was widely criticised for minimising the seriousness of what had occurred and for not addressing structural problems that may have allowed a corrupt culture to fester. Later in 2000, two further reports were released. The first was a study initiated by the Police Protective League (the police union).²⁰ Later, in November, a report commissioned by the Police Commission was released.²¹ Among other things, both reports addressed the need for a better disciplinary system and strengthened arrangements for independent oversight of LAPD.

The Kennedy Royal Commission 2002

In December 2001, public concern over several controversial investigations by the Western Australian Police Service (WAPS) and doubt over the integrity of that organisation led the Western Australian Government to establish a Royal Commission.²² The Commission's task was to find out whether there had been corrupt or criminal conduct by members of WAPS and to review the effectiveness of existing procedures and systems for investigating and dealing with criminal conduct by police. Geoffrey Kennedy, QC, headed the Inquiry. As

the Service had ... cultural shortcomings ... they supported the notion of 'noble cause' corruption, believing it to be justified by perceived deficiencies in a justice system which favoured offenders

with the Fitzgerald Royal Commission, priority was given to establishing a basis of reform rather

than prosecution of individual officers. Kennedy's report disclosed the existence of corruption ranging from stealing to assaults, perjury, drug dealing and the improper disclosure of confidential information. What he found significant was the extent to which WAPS had been ineffective in monitoring these events and modifying procedures to deal with problems and prevent their repetition. The Service also had ongoing cultural

shortcomings. Many police were still unlikely to report misconduct. They supported the notion of 'noble cause' corruption, believing it to be justified by perceived deficiencies in a justice system which favoured offenders.

The existing external oversighting agency for WAPS, the Anti-Corruption Commission (ACC), was ineffective, essentially, because it lacked the necessary powers. Replacement was recommended. The government concurred and a new organisation, the Corruption and Crime Commission (CCC), was created. Kennedy also saw a need for the CCC to develop capacity for monitoring the progress of reforms in WAPS. An auditor was appointed to conduct a qualitative and strategic audit of the reform process, a tactic similar to that recommended by Wood for the New South Wales Police Service.

The Royal Commission focussed upon areas most directly affecting corrupt and criminal conduct prevention and detection. It found that WAPS did not compare favourably with either national or international management standards of policing. An issue for the Royal Commission was that since 1994, WAPS had been undergoing a process of almost continuous change. Most of the obvious structural and strategic measures had been implemented, yet problems remained. Difficulties seemed to arise from the delivery of reforms in areas of culture, management and technology. In 2002, WAPS initiated a strategic review of systems ranging from recruitment to education, management to leadership and information technology and basic conditions of employment, all of which needed reassessing to help transform the organisation. The Kennedy Royal Commission sought procedures to assist that process. It drew on the New South Wales experience of corruption and was guided by the Wood recommendations which helped to establish wide-ranging benchmarks for management and corruption prevention.

Lessons from the Past

Within Australia, between 1973 and 2002 ten major inquiries have been conducted, either dealing specifically with organised crime or examining the management and conduct of Victoria Police. Some key findings arising from the inquiries held in Australia and dealt with in this Report are as follows:

- The long-standing presence of organised crime is confirmed across Australia.
- The presence of international criminal groups within Australia is confirmed.
- There have been, and will be, attempts to corrupt police and other public officials.
- There have been linkages, both here and overseas, between organised crime and police corruption.
- Police corruption is not confined to any particular force.
- Police methods for investigating complex structures involving organised crime have been inadequate; powers are needed to grapple with 'the code of silence' for both organised crime investigations and police corruption investigations.
- Independent and external oversighting bodies are required to monitor the management of complaints against police: they need power to launch their own corruption investigations, capacity to monitor the progress of reforms recommended from complaint investigations, and capacity to employ independent auditors (of both themselves and the force being examined) to make those reform assessments.
- Mechanisms are needed within police forces that can extract lessons from complaint investigations and disseminate them widely in the Force.
- Recruitment must be supported by rigorous background checks and psychological testing to ensure that, as far as possible, only recruits with ethics and the right temperament and attitude enter the Force.
- There has been a history of failed, lethargic and inadequate internal investigations units.
- The most fundamental and simple anti-corruption strategy comes down to strong and effective leadership and supervision.
- Limited tenure and enforced transfers in all areas of high risk policing are necessary.
- The culture of a force is a besetting and pervasive area of difficulty. Change can only be achieved by good leadership, constant monitoring, training and effective discipline. Integrity testing should be regularly used.
- So called 'noble cause' corruption is totally unacceptable. The attitude of some police towards 'bending the rules' must be dealt with through training, effective supervision and discipline.
- An anti-corruption culture must be fostered among police to build resistance to corruption, encourage early identification of opportunities for corrupt practices and an intolerance to corrupt members who would bring the Force into disrepute.

Looking forward

Readers of this Report must be asking: 'How did the perpetrators of these abuses 'get away with it' so often and for so long?' Further questions quickly follow: 'How did such matters escape the knowledge or the attention of the Force Command? Were the regional Superintendents culpably out of touch with the actual performance of the units under their direction? How did the corruption of Constables continue under the very noses of the Senior Sergeants at individual police stations?'

Corruption in a police force strikes at the heart of the justice system. This Report has canvassed the experience of other Australian states and similar jurisdictions overseas. The evidence is clear. Corruption, wherever and whenever occurring, arises from similar causes, and exhibits similar characteristics. Victoria's history and more recent experience of police corruption has close parallels in many other jurisdictions.

The very nature of police work creates opportunities for corruption. It remains an ever-present challenge to the Force Command, and to police management right down to the level of individual police stations. Dealing with corruption cannot be done intermittently, as the

dealing with corruption cannot be done intermittently, as the failures of the past have shown

failures of the past have shown. It requires ongoing and sustained effort. Victorian governments have set up many Royal Commissions and Inquiries to probe particular scandals and abuses. Such inquiries reach back to the days of Ned Kelly, and have continued steadily ever since. Seen together they demonstrate that ad hoc measures aimed at specific problems do little to maintain a corruption-free Force; a single problem may be remedied, but then, after a short pause, the cycle of corruption resumes.

While we have seen cases where suitable amendments to existing laws have designed out corruption, there are also examples of Government policies (however unintentionally) fostering the growth of corruption, and creating burdens for the police. Passing unsound laws running counter to widespread public opinion and tolerance creates an environment for corruption to flourish. History has shown that law-making in such areas



as liquor regulation, off-course betting and illegal prostitution ought to be framed carefully to avoid setting police an impossible enforcement task and to avoid creating fresh opportunities for those able to be corrupted. The growth in organised crime and the huge wealth generated by the illegal drug trade creates an environment to challenge modern police and the justice system.

Not solely in Victoria, but in the annals of police forces generally, certain themes persist. For example, corruption raises its head disproportionately in criminal investigation branches; detectives often work alone or in small groups away from close supervision; they are often involved in what may become corrupting relations with criminals and informers. Another disappointing but recurring theme, reflected in recent court cases, is that outstanding service in one area of policing is no guarantee of probity elsewhere. A number of officers with outstanding service records of hard cases successfully prosecuted, valour medals won, and many commendations have nevertheless been convicted of serious corruption.

As repeatedly pointed out in this report and elsewhere, it is misconceived to think of corruption in terms of aberrant individuals. Astute and proactive management by the Force itself is the first line of defence against corruption and misconduct.

Procedures for handling complaints made by the public against the police remain integral to anti-corruption strategies. The view held generally by the Force has been that, if complaints are genuine, only police have the necessary skills to competently deal with complaints about serious misconduct or corruption. A system under which 'police investigate police' lacks transparency and cannot command unqualified confidence. There is consistent evidence of misconduct not adequately probed; of 'delays'; of procedures neither rigorous nor impartial, whereby police witnesses receive favourable treatment; poor quality prosecution briefs contributing to a surprisingly small proportion of cases proceeding to conviction and, at times, almost risibly lenient penalties.

There is no doubt that, over recent years, the Force has tried to improve its procedures, and has made a number of structural and administrative changes to this end. For example, better safeguards now protect 'whistleblowers' who report misconduct from within the Force. Some Chief Commissioners have dedicated immense energies specifically towards the eradication of corruption and the proper handling of complaints.

However, any fair-minded assessment, both of the longer history and of current times must conclude that even strenuous efforts by police management require the oversight and reinforcement of an independent body outside the Force, equipped by law with special powers to ensure rigorous investigation. The existence of such an independent authority enhances transparency and public confidence, and allays doubt about 'police investigating police'.

The Report gives many examples of influences that have impeded the effective operation of anti-corruption and anti-misconduct measures. One of these is a widespread 'culture' in the Force which, at the slightest criticism of police officers, closes protectively around the members under question. The Police Association as the industrial voice of rank and file members has at times played an important part in perpetuating this culture. The role

of the Police Association in combating corruption should not be underestimated as one anti-corruption lawyer notes:

In the past, in other jurisdictions in which widespread police corruption has been exposed there was a real danger of a police association or its equivalent being part of the problem rather than part of the solution. This was largely because of a fundamental dilemma in deciding who the association represented. Was it the majority of honest police who abhorred corruption and did not want corrupt people within the profession? Or was it those against whom cogent evidence of corruption had been uncovered? Surely the interests of the former are not compatible with those of the latter. A police association can play a vital role in combating corruption by declaring its abhorrence of it and actively assisting in ridding the Force of it. It can provide support and encouragement for those who wish to report corruption and can actively encourage ethical attitudes and behaviour. Above all, it can be a welcoming supporter of the new breed of trainees who come imbued with enthusiasm and concentrated ethical training prior to their graduation. Their attitude is likely to reflect that of their leaders, and indeed, community expectations.'

The words of an Age editorial are also worth quoting:

None of this implies that police brutality, intimidation and officiousness in dealing with criminal suspects or ordinary citizens are widespread, and it must be recognised that police are vulnerable to false complaints. Rather, the problem is the 'brotherhood syndrome', the sense of 'them and us', the siege mentality, that encourages police to support each other against complaints from the outside. The sensitivity of the influential Police Association to the slightest criticism of its members is notorious. In this climate, younger police officers absorb the feeling that they can get away with misconduct and overbearing behaviour, because the system will protect them. ...What is still needed is a willingness by all police to accept a collective responsibility for the good name of their force, and not to shield comrades who they know have broken the rules. One useful measure would be to give the chief commissioner clearer and stronger disciplinary powers without the necessity for legalistic inquiries and hearings to deal with conduct unbecoming a police officer...

the challenge for individual Victoria Police members is how to embrace a culture committed to professionalism and high integrity that can maintain solidarity but admit mistakes and learn from them

The date of this editorial may be a surprise for some. Written 22 February 1988, nearly twenty years ago, it still has relevance for current times.

The challenge for individual Victoria Police members is how to embrace a culture committed to professionalism and high integrity that can maintain solidarity but admit mistakes and learn from them. This means ridding themselves of the attitudes and values that support criminals in their midst. The true test to those committed to good policing will

be how persuasive they can be in changing the mind-set of those still clinging to 'us and them' attitudes.

History will repeat itself and opportunistic or deliberate corruption will flourish unless we adopt sustainable strategies to address it. These strategies must:

- Build resistance to corruption by creating an anti corruption culture within police that is intolerant of bending the rules, let alone breaking them;
- Look to high risk areas and be vigilant to quickly identify emerging opportunities for corrupt practices;
- Support strong management that addresses unacceptable behaviour;
- Work effectively to rid the Force of those who would bring it into disrepute.

The continual theme that threads its way through this Report and indeed has permeated the Victoria Police since its inception, is that misconduct has flourished when effective management is absent. This is not unique to Victoria Police but is true of policing generally.

The culture of Victoria Police however makes effective governance and leadership difficult at times. For many decades, there has been an 'us and them' culture between

the culture of Victoria Police however makes effective governance and leadership difficult at times

management and the workforce. This has been nurtured to great effect by the Police Association, and too easily encourages police members to move

outside police force governance systems to air grievances, leak information, develop improper associations and protect corrupt officers.

Along with highlighting this culture, we have seen on numerous occasions in this Report, examples of corrupt police who have been results-driven and high achievers. Too many within the Force see these officers as heroes, breaking rules and abusing their power for a 'noble cause'.

There are many amongst police and in society that regard 'noble cause' corruption as a lesser evil, an understandable and entirely subjective grey zone in which we are all

noble cause corruption is the nursery of entrenched and systemic corruption

permitted to turn a 'blind eye'. What this Report demonstrates is that noble cause corruption is the

nursery of entrenched and systemic corruption. If a police force wants to rid itself of corruption, it must attack noble cause corruption.

This will be an important focus of the OPI in coming years. The work it has already done in moving against the now defunct Armed Offenders Squad was targeted at this goal. Those that went on the record to excuse the activities as noble cause corruption would lead us, as this Report has demonstrated, on a perilous path. Any abuse of authority by police, let alone systemic abuse of authority, weakens the foundation of public trust in police that is necessary for a civil society.

Policing is moving into one of its greatest periods of reform. It is becoming more sophisticated. As the workforce professionalises, police need technical expertise and specialist knowledge as well as the muscle and street-saviness of their forbears.

As it makes this transition, Victoria Police at all levels has an enormous opportunity. Its members could view the cases in this Report as isolated aberrations. Such an approach would be illusory given that a number of strands of corruption identified are still evident today. Alternatively, Victoria Police can build a Force that can be confident in its ethical and professional reputation because it is constantly rigorous in its self-appraisal and willingly holds itself accountable to the public it serves.

As OPI enters its third year of existence it continues to build on its experience. In addition to information obtained from hearings, OPI investigators have been able to obtain significant evidence through the execution of search warrants, use of surveillance devices and use of assumed identities. While some police are exonerated by the work of OPI, others have been exposed as criminals and corrupt.

Through the work of OPI investigators, often in conjunction with Victoria Police Ethical Standards Department, some seventeen briefs of evidence, involving over 100 charges, have been prepared for the prosecution of Victoria Police members and others. Current investigations indicate further criminal charges are likely to be laid in the near future.

In November 2006, with the granting of authority to conduct telecommunication interception and receive intercept material, OPI gained the capacity to share information and work with other anti-corruption investigative bodies.

In conjunction with its investigative role, OPI receives and monitors complaints about police conduct generally and has built a corruption prevention and research capacity. In addition to the early identification of trends in police conduct, and close monitoring of individuals or areas at risk of breeding corruption, OPI will continue to identify best practise standards and recommend measures to address systemic issues.

Areas that regularly reappear in this Report remain at risk of breeding corruption. Consistent with the work OPI has already done, they highlight where the focus of attention lies:

- Police involvement in the illicit narcotic trade, including manufacturing and selling drugs;
- Continued undesirable relationships between serving police and convicted criminals;
- Improper and illegal management of informers by police including committing crimes with them;
- Police stealing property and money from the public; and
- Police actively subverting the legal process to their own end.

In addition to targeting activities in these areas, OPI will continue to support Victoria Police management to rid the Force of those who abuse the trust society has vested in them. It will work with Victoria Police to build resistance to corruption and a culture that values the highest possible ethical and professional standards.

Acknowledgements

The Review team cast its net wide. Its reading included the leading texts on corruption and related topics published in Australia and overseas. As the focus of the work was on Victoria Police, a broad array of state archival material, legislation and public documents was examined. Many Second Reading speeches and debates reported in the Victorian Hansard were fruitful. The Annual Reports of Victoria Police and of Ombudsman Victoria were consulted, as well as the relevant files in both offices. Newspaper articles spanning 150 years have been scrutinised. Victoria Police cooperated fully with the Review. Numerous decisions of the Police Appeals Board (and its predecessor bodies) were studied. There were rewarding interviews with many serving and retired members of the Force of varying rank and of especially relevant experience.

Appreciation for the work involved in the Report goes to the project leader, Brian Hardiman, Chief Inspector Ralph Stavely who was seconded to the Office of Police Integrity from Victoria Police, Mr Graeme Brewer, Research Consultant, and Assistant Commissioner (Retired) Bill Robertson and project coordinator Margret Holmes. Inspector Richard Watkins, made available by Victoria Police, provided valuable insights for the Review team. The generous and candid contributions of numerous current and former serving police, including previous Chief Commissioners were appreciated. (For confidentiality, references to such interviews are cited in this Report by date only.) Others from the legal profession and public service were among the more than fifty people interviewed. Their insights supplemented the extensive documentary research, greatly enhancing the value of the Report. Victoria Police library and records staff were unfailingly helpful and their contribution to the Report deserves particular recognition.

Special thanks are also due to Dr Bob Haldane whose history *The People's Force* guided the Review team's exploration of Victoria's policing history.

Appendix one

Chronology of main events 1852–2004

- 1852 Report from the Select Committee on Police – recommending the establishment of Victoria Police
- 1853 **Chief Commissioner Mitchell**, first Chief Commissioner of Victoria Police, takes office
- 1855 **Chief Commissioner Mitchell** leaves office
- 1855 **Chief Commissioner McMahan** takes office
- 1858 **Chief Commissioner McMahan** leaves office
- 1858 **Chief Commissioner Standish** takes office
- 1863 Report from the Select Committee of The Police Force – investigating allegations of maladministration in the Force
- 1880 **Chief Commissioner Standish** leaves office
- 1881 **Chief Commissioner Chomley**, first policeman to be appointed Chief Commissioner takes office
-
- Longmore Royal Commission of Enquiry into the Kelly Outbreak etc – First and Second progress reports
- 1882 Longmore Royal Commission of Enquiry into the Kelly Outbreak etc – Interim report
- 1883 Longmore Royal Commission of Enquiry into the Kelly Outbreak – Proceedings, Minutes of Evidence Appendices etc
- 1902 **Chief Commissioner Chomley** retires due to ill health
Chief Commissioner O'Callaghan takes office
- 1906 Cameron Report of the Royal Commission on the Victoria Police Force
- 1913 **Chief Commissioner O'Callaghan** leaves office
Chief Commissioner Sainbury takes office
- 1919 **Chief Commissioner Sainbury** leaves office
Chief Commissioner Steward takes office
- 1920 **Chief Commissioner Steward** dies in office
Chief Commissioner Gellibrand takes office
- 1922 **Chief Commissioner Gellibrand** leaves office
Chief Commissioner Nicholson takes office
- 1923 Police Strike
- 1925 **Chief Commissioner Nicholson** leaves office
Monash Report of the Royal Commission on the Victorian Police Force
- 1925 **Chief Commissioner Blamey** takes office

- 1933 Kelley Report of the Board of Inquiry
- 1935 **Chief Commissioner Blamey** forced to resign
- 1936 Macindoe Report of the Royal Commission on the Alleged Shooting at and Wounding of John O'Connell Brophy
- 1937 Duncan Interim Report on the Police Force of Victoria
Chief Commissioner Duncan takes office
- 1942 Clyne Report of Royal Commission into Licensing Laws of Victoria
- 1954 **Chief Commissioner Duncan** resigns
- 1955 **Chief Commissioner Porter** takes office
- 1958 Last major revision of the *Police Regulation Act* 1958;
Martin Royal Commission into Off-the Course (SP) Betting;
Establishment of Police Discipline Board (disciplinary matters) and Police Service Board (conditions and certain appeals on promotion and transfers)
- 1961 Victorian Totalisator Agency Board (TAB) commences operation after a crackdown on illegal (SP) betting
- 1962 Investigation into allegations of corruption in the Breaking Squad
- 1963 **Chief Commissioner Porter** dies in office
Chief Commissioner Arnold takes office
- 1964 Cusack Inquiry into organised crime following shootings at the Queen Victoria Market
- 1965 Chief Superintendent (Investigations) (complaints against police)
- 1969 **Chief Commissioner Arnold** leaves office
Chief Commissioner Wilby takes office
- 1970 Kaye Board of Inquiry into allegations of bribery by abortionists
- 1971 St. Johnston Report regarding the operation of Victoria Police
Chief Commissioner Wilby leaves office
Chief Commissioner Jackson takes office
- 1973 Office of Ombudsman Victoria established
- 1974 Beach Inquiry commenced following further allegations of police corruption
- 1975 Internal Investigations Bureau (B11) established (complaints against police)
- 1976 Norris Committee of Inquiry into the appropriateness of Beach recommendations for procedural reform
- 1977 **Chief Commissioner Jackson** resigns
Chief Commissioner Miller takes office

- 1981 Zebra Task Force inquiry into corruption at the Licensing, Gaming and Vice Squad
- 1982 Neesham Committee Report on the capacity of Victoria Police
- 1985 Internal Investigations Department (IID) established (complaints against police);
Continental Airlines affair
- 1986 Enactment of *Police Regulation (Amendment) Act*;
Police Complaints Authority commenced operation
- 1987 **Chief Commissioner Miller** leaves office
Chief Commissioner Glare takes office
- 1988 Police Complaints Authority ceased operation
Officer of Deputy Ombudsman (Police Complaints) established
- 1992 **Chief Commissioner Glare** leaves office
- 1993 **Chief Commissioner Comrie** takes office
Police Review Commission established (replaced Police Discipline and Police Service Boards; granted recommendatory power in relation to disciplinary matters, and promotions and transfers)
- 1995 Operation Bart investigations of corruption involving police and certain window shutter services
- 1996 Ethical Standards Department established (investigation of complaints against police; proactive investigations and pro-ethics strategy) following the report of Project Guardian
- 1999 Police Appeals Board established (replaced Police Review Commission; granted binding, decision-making power on disciplinary matters, and on promotions and transfers);
Post-implementation Review of Ethical Standards Department (Martin Review);
Chief Commissioner of Police granted legislative authority to dismiss members in whom there is a loss of confidence in their integrity
- 1999 Arrests of police following Operation Hemi investigation of allegations of corruption within the Drug Squad
- 2001 **Chief Commissioner Comrie** leaves office
Chief Commissioner Nixon takes office
- 2002 Establishment of CEJA Task Force to inquire into drug-related corruption by Force members
- 2004 Office of Police Ombudsman in June; Office of Police Integrity established in November

Appendix two

Synopsis of Victorian Inquiries and Commissions

In total, this report refers to 6 Royal Commissions (the Longmore Royal Commission into the Kelly outbreak reporting in 4 parts). It also refers to 13 reports into the Victoria Police (note – there are three reports referred to under paragraph 2 below; and there were two separate reports by Duncan in 1937, an interim report being necessitated by the urgency of the need to take corrective action in relation to the work practices of the detectives).

1. Report from the Select Committee on Police. Melbourne, Government Printer, 1852. (Snodgrass) – Established by the Legislative Council with a view to improving the efficiency of policing in Victoria. Transcripts of evidence taken refer to corruption within the detective branch of the police in Melbourne, and a general state of inefficiency within policing in Victoria. This report led to the establishment of the Victoria Police.
2. Report from the Select Committee on The Police Force, together with the Proceedings of the Committee, Minutes of Evidence, and Appendices. Melbourne, Government Printer, 1863. – Problems with the administration of the Force led to three separate Government Select Committees that investigated allegations of maladministration within the Force. Included allegations of corrupt activity by certain officers.
3. Progress Report of the Royal Commission of Enquiry into the Circumstances of the Kelly Outbreak, the Present State and Organisation of the Police Force, etc. Melbourne, Government Printer, 1881 (Longmore), and the Second Progress Report of the Royal Commission of Enquiry into the Circumstances of the Kelly Outbreak, the Present State and Organisation of the Police Force, etc. Melbourne, Government Printer, 1881. (Longmore). Interim Report of the Royal Commission of Enquiry into the Circumstances of the Kelly Outbreak, the Present State and Organisation of the Police Force, etc. Melbourne, Government Printer, 1882 (Longmore). Royal Commission on Police, The proceedings, Minutes of Evidence, Appendices, etc Melbourne Government Printer, 1883 (Longmore) – A Royal Commission established to inquire into police inefficiency in the hunt for the Kelly gang, but later included an inquiry into corruption within policing in Melbourne, and the many problems involving the detective branch.
4. Report of the Royal Commission on the Victorian Police Force. Melbourne, Government Printer, 1906. (Cameron) – established because of allegations that the Force was unable to suppress crime, and that there were elements of corruption in the ranks.
5. Report of the Royal Commission on the Victorian Police Force. Melbourne. Government Printer, 1925. (Monash) – sought to establish the causes of the police strike, the origins of which included both poor pay and conditions, repressive supervisory practices, and allegations of misbehaviour and corruption amongst certain units within the Force.

6. Report of the Board of Inquiry Appointed to Inquire into Certain Allegations and Complaints made against Certain Members of the Police Force, including the Chief Commissioner of Police. Melbourne, Government Printer, 1933 (Kelley) – related to allegations that police were involved in drug trafficking, and also had sought rewards from Insurance companies for the recovery of stolen cars.
7. Report of the Royal Commission on the Alleged Shooting at and Wounding of John O'Connell Brophy, A Superintendent of Police. Melbourne, Government Printer, 1936. (MacIndoe) – the inquiry which led to the resignation of CCP Blamey, after attempts were made by the Force to 'hush up' the circumstances of the shooting.
8. Interim Report of Alexander M. Duncan, Esq., Chief Inspector, London Metropolitan Police, on the Police Force of Victoria. Melbourne, Government Printer, 1937, and Final Report of Alexander M. Duncan, Esq., Chief Inspector, London Metropolitan Police, on the Police Force of Victoria. Melbourne, Government Printer, 1937 – In the wake of the MacIndoe Royal Commission Duncan was brought to Victoria by the State Government to inquire into the state of policing. He was particularly critical of the methods used by detectives.
9. Report of the Royal Commission Appointed to Inquire into Certain Allegations Regarding the Administration of the Licensing Laws of Victoria. Melbourne Government Printer, 1942. (Clyne) – this Royal Commission was in part established because of imputations by a member of parliament that there was corruption in the police administration of licensing laws. While the member failed to substantiate these allegations before the Commission he claimed the evidence was not produced because of inadequate protection for those police who could support the claims.
10. Report of the Royal Commissioner Appointed to Inquire into Off-the-Course Betting together with Minutes of Evidence. Melbourne, Government Printer, 1959 (Martin) – police evidence before this inquiry freely admitted widespread corruption amongst police enforcing SP betting legislation.
11. Procedure on the interrogation of Suspected Persons by the Police. Melbourne. Office of the Solicitor General. 1965 – the Murray Report, initiated following complaints by the Chief Justice in relation to improper police interrogation techniques, it led to changes in interview procedures, and the establishment of the first formal complaint structure within Victoria Police.
12. The Mr X Inquiry. Victoria Police, 1965. – Allegations of police corruption made by a police informer to the Solicitor-General, were referred to the Chief Commissioner of Police for investigation. Although not an 'independent' inquiry as such, it attracted enormous publicity, which impacted on public perceptions of the Force.

13. Report of the Board of Inquiry into Allegations of Corruption in the Police Force in Connection with Illegal Abortion Practices in the State of Victoria. Melbourne. Government Printer, 1971 (Kaye) – following allegations brought to the Government's attention by Dr Bertram Wainer; this inquiry established long standing corruption with the Homicide Squad, 3 members of which were ultimately convicted and gaoled.
14. A Report on The Victoria Police Force following an Inspection by Colonel Sir Eric St. Johnston, C.B.E., Q.P.M., H.M. Chief Inspector of Constabulary for England and Wales, 1967-70. Melbourne, Government Printer, 1971 – in the wake of the Kaye Inquiry the State Government arranged for St. Johnston to inspect the Victoria Police. Whilst not an inquiry into corruption per se, he did note numerous deficiencies in the management of the Force. Amongst other things he drew attention to the urgent need for increased supervision.
15. Report of the Board of Inquiry into Allegations Against Members of the Victoria Police Force. Melbourne, Government Printer, 1976 (Beach) – inquired into further allegations of misbehaviour and corruption within the Victoria Police brought by Dr Wainer. Despite adverse findings against 55 police for matters including conspiracy, perjury, corruption, etc, no member of the Force was convicted of any offence.
16. Reports of the Committee Appointed to Examine and Advise in Relation to the Recommendations Made in Chapter 8 of Volume 1 of the Report of the Board of Inquiry Appointed for the Purpose of Inquiring Into and Reporting Upon Certain Allegations Against Members of the Victoria Police Force. Melbourne, Government Printer, 1979-80. (Norris) – A Committee established by the Government to review Beach's recommendations.
17. Report of the Committee of Inquiry – Victoria Police Force (Chair: T.A.Neesham QC). Established in 1982, it reported in 1985. The terms of reference initially focused on management and efficiency issues although these were amended in June 1983 to include urgent review of the procedures adopted in maintaining internal discipline.
18. Ministerial Administrative Review into Victoria Police Resourcing, Operational Independence, Human Resource Planning and Associated Issues. Department of Justice, Melbourne, 2002. Undertaken by John C. Johnson. The review had its genesis in comments made by the Victorian Labor party prior to the 1999 State election to ensure the Victoria Police would be a modern and efficient force. It was an administrative review that did not comment on police corruption.

The Terms of Reference for this review included – Recommendation of appropriate protocols between Government and Victoria Police, review of human resource planning, succession planning, career path opportunities, effective consultation and issue resolution, and development of a model for the proposed Police Career

Service Commission. It contained an analysis of the Discipline Process and a possible updated framework for that process. Force Command supported the current discipline model; the Victoria Police Association opposed it and outlined perceived problem areas.

Johnson recommended the continuance of the current system in the short term, with the Police Career Service Commission to oversee the discipline framework and undertake a more substantial update in due course. He made specific recommendations about such matters as fairness of the discipline process, the hearing officer role, the administration of the discipline process, consistency of levels of sanctions, practicality of reinstatement, appropriateness of action taken, and oversight of the discipline process by the Police Career Service Commission.

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List of Illustrations

Chapter 2

The Murder of Sherritt, wood engraving published in *The Illustrated Australian News* July 3, 1880. LaTrobe Picture Collection, State Library of Victoria (Image ref: IAN03/07/80/97). Reproduced with kind permission from the State Library of Victoria.

Chapter 3

Melbourne Police Strike 1923, National Library of Australia Collection (image ref: an24616971). Reproduced with kind permission from the National Library of Australia.

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Statue at Court of Appeal, Melbourne. Reproduced with kind permission from the Department of Justice.

Chapter 5

Age Staff Photographer, *In the dock (Higgins, Glare & Strang)*. *The Age* January 29, 1995. Age Archives, Courtesy of The Age

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Age Staff Photographer, *Generic police corruption*, *The Age* February 8, 1996, reproduced courtesy of Fairfaxphotos (Image ID 4834731)

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Parliament House Melbourne. Reproduced with kind permission from the Department of Premier and Cabinet.

Chapter 8

Abraham, C., *Victorian Police Badge*, *The Age* September 28, 2004. Reproduced courtesy of Fairfaxphotos (Image ID 4248879)

Chapter 9

Book and notes. OPI's own.

Chapter 10

Police Academy. OPI's own.

Abbreviations

ACC	Anti-Corruption Commission
AFP	Australian Federal Police
ALRC	Australian Law Reform Commission
BCI	Bureau of Criminal Intelligence
CCB	Central Correspondence Bureau
CCP	Chief Commissioner of Police
CCC	Corruption and Crime Commission
CCS	Crime Car Squads
CIB	Criminal Investigation Branch
CID	Criminal Investigation Department
CIU	Criminal Investigation Unit
CRB	Central Registry Branch
DOPC	Deputy Ombudsman (Police Complaints)
DPP	Director of Public Prosecutions
DTS	Detective Training School
ESD	Ethical Standards Department
IID	Internal Investigation Division
IIU	Internal Investigation Unit
ISU	Internal Security Unit
LAPD	Los Angeles Police Department
MoU	Memorandum of Understanding
NCA	National Crime Authority
OPI	Office of Police Integrity
PCA	Police Complaints Authority
PCSC	Police Career Services Commission
PMG	Postmaster-General's Department
PNC	Police National Computer
PRC	Police Review Commission
RICO	Racketeer Influenced and Corrupt Organisations
SP	Starting Price (bookmaking)
TAB	Totalisator Agency Board
VGP	Victorian Government Printer
VPMSB	Victoria Police Management Services Bureau
WAPS	Western Australian Police Service

Endnotes

Chapter 2

1. M. Fels, *Good Men and True: The Aboriginal Police of Port Phillip District 1837–1852*, 1988.
2. A detailed account of the many setbacks and difficulties of the Colonial period will be found in chapters 1 and 2 of R. Haldane, *The People's Force*, 1986.
3. G. Serle, *The Golden Age; a History of the Colony of Victoria 1851–1861*, 1963.
4. VPMSB, *Police in Victoria 1836–1980*, 1980.
5. *Australian Dictionary of Biography*, vol 6, 1976 pp.172-3.
6. Haldane, op.cit. p. 43ff.; Serle, op.cit. passim.
7. Haldane, op.cit. p. 36.
8. Select Committee on the Police Force, *Report*, 1863.
9. Between 1881 and 1883 the Longmore Royal Commission published two progress Reports, one interim report and a final report, with much supplementary detail. (See Appendix Two of this Report). Useful general discussions appear in G. Serle, *The Rush to be Rich: a History of the Colony of Victoria 1883–1889* (passim), and in Haldane, op.cit., chapter 2.
10. *Australian Dictionary of Biography*, vol. 3, 1969 p. 393.

Chapter 3

1. This section largely follows Haldane, op.cit. chapter 3 and the Report of the Cameron Royal Commission published in 1906.
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3. *Victorian Parliamentary Debates*, 13.09.1916, p. 1342,1346.
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10. A full discussion of the strike will be found in Haldane, op.cit. and in G. P. Brown and R. Haldane, *Days of Violence*, 1998.
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13. *Argus*, 3.04.1925.
14. *ibid.* 21.03.1925.
15. *Truth* 28.03.25.
16. Haldane, op.cit. pp. 194–196.
17. *Police Pensions Act*, 1923, sections 29, 30, 31.
18. Haldane, op.cit., pp 201-207.
19. Board of Inquiry to Inquire into Certain Allegations and Complaints Made against Certain Members of the Police Force including the Chief Commissioner of Police, *Report*, 1933, p. 23.
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21. *Argus* 06.12.33.
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23. VPMSB, *Police in Victoria 1836–1980*, 1980, p. 19.

24. A. M. Duncan, *Interim Report*, 1937, pp. 8, 9, 12–15.
25. Police File 46/8682/14.
26. A. Dower, *Deadline*, 1979, p. 21.
27. For details see Royal Commission Appointed to Inquire into Certain Allegations Regarding the Administration of the Licensing Laws of Victoria, *Report*, 1942, and *Victorian Parliamentary Debates*, (Assembly), 8.12.1942, pp. 2016–65.
28. Board of Inquiry into Casinos ordered by the Legislative Assembly, *Report*, 1983, Chapter 14.
29. Act to Amend the *Police Regulation Act* 1928.
30. *Victorian Parliamentary Debates*, 26.10.1938, p. 2346.
31. A remarkably similar process to the Police Review Commission created in 1993.
32. Haldane, op. cit., pp. 233–6.
33. Brigadier Tovell, Member for Brighton, *Victorian Parliamentary Debates*, 2.04.1946, p. 1113.
34. Mr Slater, *Victorian Parliamentary Debates*, 17.04.1947, p. 1481.
35. Mr Cremean, *Victorian Parliamentary Debates*, 2.04.1946, p. 1117.
36. This was later renamed the Police Service Board – Act 6957/1962.
37. Interview material 31.03.05.
38. See also R. Hall, *Disorganised Crime*, 1986, p. 28; N. Morris and G. Hawkins, *The Honest Politician's Guide to Crime Control*, 1970, pp. 108–9.
39. Royal Commissioner Appointed to Inquire into Off-Course Betting, *Report* 1958-1959, p. 15.
40. *Herald*, 20.10.1958.
41. *Victorian Parliamentary Debates*, session 1958–59, vol. 257, p. 2554.

Chapter 4

1. *Sun News-Pictorial*, 4.06.1965.
2. *Truth*, 9.09.1961.
3. *Victoria Police Association Journal*, May 1966, pp. 234-247 provides a précis of the Minutes of the Special General Meeting of the Police Association held at the Police Auditorium, Latrobe Street, Melbourne, Thursday, 31.03.1966 at 8.00 pm.
4. Since development of the Victoria Police Witness Program in 1986 the action taken for Mr 'X' is note action taken for Latch is not at all inconsistent with ensuring witness safety.
5. *Victoria Police Association Journal*, May 1966, p. 255, Secretary's Note.
6. *The Times*, 29.11.1969.
7. R. Mark, *In the Office of Constable*, 1979.
8. Board of Inquiry into Allegations of Corruption in the Police Force in Connection with Illegal Abortion Practices in the State of Victoria, *Report*, 1971.
9. Victoria Police CCB File 82-3-591/85, 'Collingburn, Neil Stanley (Dec'd, D.O.B. 24/3/42 Dkt 769/62) inquiry into circumstances surrounding his arrest on 26/3/71'.
10. Ombudsman Victoria, *Annual Report*, 2003, pp. 65-6. The fact that these reports were not made public would seem to explain why it has been difficult to assess the effectiveness of the reporting process.
11. *ibid.*, pp. 65–6.
12. *Age*, 16.09.1971.
13. Interview material, 31.05.2005.
14. Ombudsman Victoria, *Annual Report*, 2003, p. 66.
15. Haldane, op. cit., p. 279.

16. E. St. Johnston, *A Report on the Victoria Police Force*, 1971.
17. Haldane, op. cit., p. 279.
18. *Age*, 12.09.1989.
19. Board of Inquiry into Allegations against Members of the Victoria Police Force, *Report*, 1970.
20. Haldane, op. cit., p. 290.
21. Victoria Police, *Inspectorate and Future Plans, Report on Recommendations of the Board of Inquiry into Allegations against Members of the Victoria Police*, 1977 p. (xvi).
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25. *Age*, 19.10.1976.
26. *Victoria Police Association Journal*, 1963, p. 154.
27. 'President's Annual Report, Legal Assistance for Members', *Victoria Police Association Journal*, September 1965, p. 69.
28. *Victoria Police Association Journal*, January 1966, p. 145.
29. *ibid.*
30. *Victoria Police Association Journal*, December 1976, p. 51. Money was raised from social nights (1st District raised \$850) and donations from groups such as the Queensland Police Union, which sent \$1,000.
31. *Victoria Police Association Journal*, March, 1977 p. 7. In June 1985, Rippon reinforced these comments by writing that in cases where police had accidents driving police cars and were found to have a blood alcohol content over the legal limit 'it was...abundantly clear that either on a moral or legal basis, the Association could not and would not provide funding in this area'. *Victoria Police Association Journal*, June 1985, p. 9.
32. Minutes of the General Meeting of Members of the Victoria Police Force and the Victoria Police Association held Monday 18 October 1976 at Festival Hall, Melbourne, in *Victoria Police Association Journal*, November 1976, p. 31.
33. This demand was framed well before the October meeting; see *Victoria Police Association Journal*, August 1976, p.13.
34. *Victoria Police Association Journal*, October 1984, p. 31.
35. Victoria Police CCB File 012202/98, 'Legal Representation Reimbursement of Fees and Costs for Police Members'.
36. *Police Life*, June 1978, provides a comprehensive account of the numerous achievements by Miller in his first twelve months of office, Haldane, op.cit. pp. 282-296 also describes his work.
37. Underlying Splatt's motion was Miller's public rebuke and apology, on three separate occasions, for the actions of errant policemen: the Association believed his candour showed a lack of support for the membership. *ibid.*
38. For this section Interview material has been drawn from 31.03.2005; 14.04.2005; 03.06.2005.
39. Interview material, 3.06.2005.
40. Interview material, 31.03.2005.
41. Special funding was required to establish the Task Force and eventually was granted by government; see Victoria Police CCB File 24-41-694/82, 'Operation Zebra: Funds required for operating expenses re investigation of large scale illegal betting'.
42. Victoria Police CCB File 24-41-701/82, 'Operation Zebra - Establishment of above to investigate activities re Starting Price Bookmakers in Victoria'.
43. Interview material, 3.06.2005.
44. *The Sun News-Pictorial* 06.03.87.

Chapter 5

1. *The Sun News-Pictorial* 24.10.1987.
2. *Age* 24.10.1987.
3. R. V. Harris (1989) 41 ACRimR p. 1.
4. Victoria Police. *Report of investigation into allegations involving police and massage parlour at Glen Eira Road* 25.10.82.
5. The rationale for this was pragmatic: it aimed at developing the skills of younger, less experienced members by having the more experienced police available to mentor them; it ensured that, over time, the make-up of different squads or units would slowly turn over to help keep them 'clean'; it also ensured that a newly promoted member did not have to switch overnight from being 'one of the boys' to becoming the supervisor and decision-maker of former peers, thus allowing that newly promoted officer to acquire and develop new (supervisory) skills in relatively neutral territory.
6. Police Service Board Reported Decision of 15 June 1982 (No A17/82).
7. Police Service Board Appeal, A17/82, op. cit.
8. *Herald Sun* 27.03.1993.
9. For some members engaged in the investigation, the cost was severe and placed families and relationships under strain because of excessively long hours and concern about well-being; furthermore, the lack of resources and the hostile attitudes towards investigators by other police did little to bring peace of mind or make the job any more easy.
10. It is of interest that throughout the whole of this saga, Kel Glare was a common factor: first as Assistant Commissioner (IID) and secondly as Chief Commissioner. In the latter phase, he requested from the government, many times, the authority to dismiss from the Force people like Higgins. It was never granted, nor was there any sensible explanation other than it was 'too hard'. At the same time, from his personal interaction with the Association, he knew 'they vehemently opposed the Chief Commissioner having the power to sack'. Interview material.
11. Committee of Inquiry – Victoria Police Force, *Report*, vol. 2, 1985, p. 596.
12. Interview material, 29.03.2005.
13. Peremptory action achieved through administrative process had an effect on similar squads interstate. It was realised that similar tactics could be employed against them too, as a means of bringing people into line. Interview material, 29.03.2005.
14. N. McDonald, 'Armed for Major Crime', *Police Life*, September 1986, p. 160.
15. Victoria Police, *Annual Report*, 1960, 1970, 1980 and 1989–1990.
16. Royal Commission of Inquiry into Drugs, *Report*, Book B, parts VI–IX, 1980, pp. 228–9.
17. J. Silvester, A. Rule and O. Davies, *The Silent War*, 1995, p. 6.
18. Ombudsman's File 059895.
19. *Sun News-Pictorial*, 24.04.1990.
20. *Herald Sun*, 24.01.1991.
21. *Herald Sun*, 6.06.1996.
22. J. Miller, *Police Corruption in England and Wales*, 2003, p. 13.
23. This characteristic has been evident since the Fitzgerald Inquiry in Queensland in 1989 and remains a feature of some police culture.
24. 'Resource Management and Patrol Supervision', *Victoria Police Manual*, pp. 103–4.

Chapter 6

1. J. Ross, 'Drugs and the Law', *Police Life*, June, 1975, p. 4.
2. *Truth*, 12.02.1917, in *Police Life*, vol. 2, no. 10, March, 1957, p. 1.

3. *Police Life*, May, 1987.
4. League of Nations, *Advisory Committee on Traffic in Opium and Other Dangerous Drugs*, 1936.
5. *Police Life*, vol. 2, no. 10, March, 1957, p. 1. See also Victoria Police, *Annual Report*, 1952, p. 25.
6. Victoria Police, *Annual Report*, 1954, p. 16.
7. Victoria Police, *Annual Report*, 1955, p. 16.
8. R. Kyte-Powell, 'Drugs and Modern Policing', *Police Life*, December 1976 p. 13.
9. *Sun News-Pictorial*, 13.01.1981.
10. Ombudsman Victoria, *Interim Report 'CEJA'*, 2003, p. 3.
11. Victoria Police, *Annual Report*, 1981.
12. Ombudsman Victoria, op.cit.
13. Victoria Police, *Drug Squad Review*, p. 43.
14. Ombudsman Victoria, op.cit.
15. *Age*, 27.12.1990.
16. 'Police under Fire: Comrie Blasts TV Expose as Letdown', *Herald Sun*, 11.02.1998. Dr Perry (former Ombudsman) who appeared on the program said, 'it provided little evidence to support its allegations, was unprofessional and dishonestly edited'. Former ABC television news and current affairs Director Jock Rankin was reported to have criticised the program as shallow and lacking in substance, saying it was 'trial by media'.
17. R.V. Hicks and Pilarinos [2000] VSC 236 (30 May 2000)
18. Miller, op. cit., p. 21 reports that in England and Wales 'performance driven' culture 'encouraged officers to cut corners in order to achieve apparently successful outcomes...its negative consequences are best illustrated...by...rule bending'.
19. Deputy Ombudsman (Police Complaints) File 046791.
20. Police File C3 – 2/778/1998, 29.12.1992.
21. Apart from the matters already mentioned, a review of previous audits by the Corporate Management Review Division confirmed a culture that applauded operational focus to the detriment of administrative practice. In particular, lack of attention to the latter revealed inordinate lethargy by supervising officers: a 1991 review had identified thirty-five functions needing to change. It took the Squad three and a half years to achieve these, and even then not without pressure. See Miller, op. cit., p. 9.
22. Interview material, 26.04.2005. J. Stevens, 'Integrity is Non-negotiable', p. 2, reports a similar finding in the UK: 'Well respected career detectives who all had substantial experience. They were generally extremely effective as detectives most of the time and so had many supporters which meant that they were rarely treated with suspicion.'

Chapter 7

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2. Victoria Police Management Services Bureau, *A Search for Sanity*, 1982.
3. *Force Circular Memo* 91-9-4, 17.12.1991. Effective 1.01.1992.
4. CRB File 51-449/92 'Registration of Informers' relates to the development of the policy.
5. Inquiry into Prostitution: *Options Paper*, Victoria, November 1984, p. 4.
6. Report by a Working Party to the Minister for Planning and Environment on Location of Massage Parlours, Victoria, October 1983, para. 1101, p. 53.
7. *Victorian Parliamentary Debates*, second reading of the Prostitution Regulation Bill, 23.10.1986, pp. 1495–6.
8. Inquiry into Prostitution: *Final Report*, Victoria, October 1985, vol. 1.
9. CRB File 24-61-3933/84, 'Massage Parlours – Policing of'. Report from the Assistant Commissioner (Crime) to Deputy Commissioner (Administration) 23.01.1983.

10. *Prostitution Regulation Act*, No. 124/1986, assented to 23.12.1986.
11. 'Labor Settles for Part Reform of Prostitution Law', *Age*, 22.07.1987, p. 3.
12. Board of Inquiry into Casinos Ordered by the Legislative Assembly, *Report*, 1983.
13. 'All Bets Are Off', *Sun News-Pictorial*, 25.05.1983, p. 1.
14. Board of Inquiry into Poker Machines, *op.cit.*
15. *ibid.* para 6.52.
16. This matter is referred to in Chapter 7 of this Review in connection with Project Beacon and the Police Shootings Inquiry.
17. *Review of Fatal Shooting by Victoria Police*. Report of the Director Police Integrity PP No 177 of 2005

Chapter 8

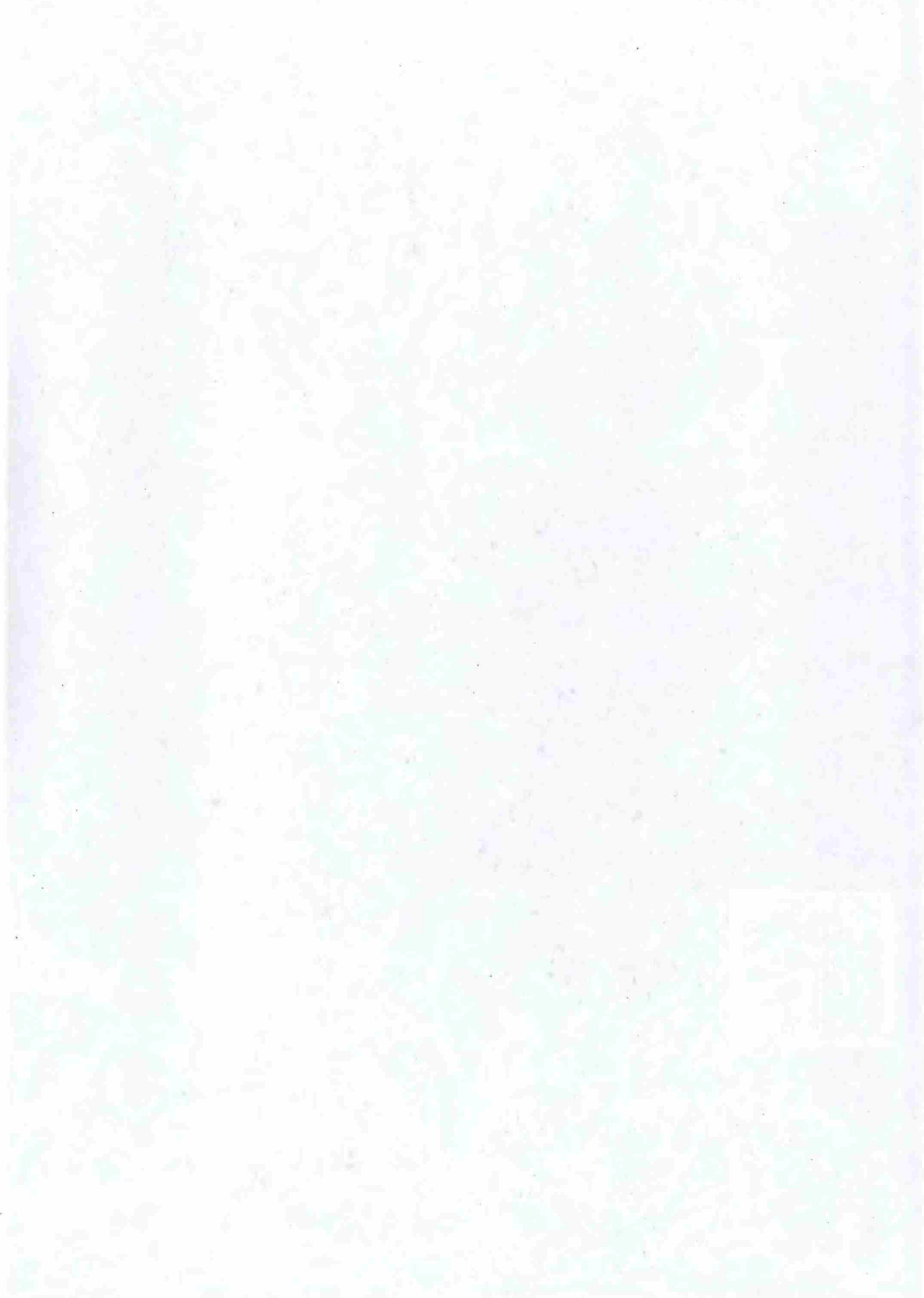
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2. *Age*, 7.11.1980 & 08.11.1980.
3. *Victorian Parliamentary Debates*, 11.11.1980, pp. 2381–2 and 2430–4.
4. Chief Commissioner of Police, Executive Instruction No. 165; Internal Investigations Department – Establishment of, 12.03.1985.
5. Victoria Police, *Annual Report*, 1985.
6. *Victoria Police Association Journal*, November 1984, p. 9.
7. Victoria Police, *Annual Report*, 1985, p. 49.
8. S. I. Miller, *Police Life*, May 1985, p. 75.
9. Victoria Police, *Annual Report 1987*; Police Complaints Authority, *Annual Report 1987*.
10. Review of the Investigation of Complaints by the Internal Investigation Department of the Victoria Police: *Report to the Minister for Police and Emergency Services*, 27 October 1987, written by Professor Jack Richardson.
11. Interview material, 23.05.2005 and Victoria Police, *Annual Report*, 1989–1990, p. 31 and 1990–1991, p. 45.
12. *Police Regulation (Discipline) Act*, 1993, (No. 35/1993).
13. *Victoria Police Association Journal*, April 1993, pp. 7–9, and May 1993, pp. 3, 5 and 25–49 relating to the Special General Meeting.
14. *Police Regulation (Amendment)*, No. 10250, 1985, Section 89.
15. Victoria Police, *Annual Report*, 1995–1996.
16. *Victoria Police Gazette*, 2.09.1996, no. 17, pp. 1, 2, 9 and 10, and *Police Life*, April 1996, pp. 6, 7, August, 1996, pp. 4, 5, and December 1996, pp. 6, 7. H. Goldstein, *Policing in a Free Society*, 1977, p. 214, supports this type of approach.
17. 30/1999, *Police Regulations and Firearms (Amendment) Act 1999*.
18. *Victorian Parliamentary Debates*, Police Regulations and Firearms (Amendment) Bill – Second Reading, 22.04.1999.
19. *Victoria Police Association Journal*, March 1999; April 1999; May 1999; August 1999.
20. Ministerial Administrative Review into Victoria Police Resourcing, Operational Independence, Human Resource Planning and Associated Issues, *Report*.
21. Goldstein, *op. cit.*, p. 202.
22. R. Mark, *In the Office of the Constable*, 1979, p. 102, believes the two groups most immune from the criminal law are the police and lawyers.
23. Interview material, 14.06.2005 and see also Mark, *op. cit.*, p. 103.
24. Goldstein, *op. cit.*, p. 215.
25. Interview material, 3.06.2005.

Chapter 9

1. McCoy found that 'Organised crime leaders maintain an informal central intelligence system among themselves of compromised solicitors, magistrates, police, accountants, company investigators, parliamentarians, media figures, journalists and assorted minor public figures. At an appropriate moment the compromised individual is contacted and asked to do one more favour – a small one perhaps, but large enough to contribute to the survival of the system of organised crime.' Cited in E. Whitton, *Can of Worms*, 1986, p. 10.
2. See also J.H. Skolnick and D.H. Bayley, *The New Blue Line*, 1986, p. 19; pp. 82–3, (citing Nelson, *The Cop Who Wouldn't Quit*, p. 89); pp. 119–20.
3. Royal Commission on Allegations of Organised Crime in Clubs, *Report*, 1974, p. 12.
4. Comments for the Woodward Inquiry are drawn generally from Royal Commission into Drug Trafficking, *Report*, 1983.
5. Comments for the Williams Inquiry are drawn generally from Royal Commission of Inquiry into Drugs, *Report*, 1980.
6. Royal Commission of Inquiry into Drugs, *op.cit.*, p. B 231.
7. See also H. Goldstein, *Policing a Free Society*, 1977, p. 191.
8. Comments for this section are drawn generally from Commission to Inquire into the New South Wales Police Administration, *Report*, 1981.
9. Comments for this section are drawn generally from Royal Commission on the Activities of the Federated Ship Painters and Dockers Union, *Report*, 1983.
10. Comments for this section are drawn generally from Royal Commission of Inquiry into Drug Trafficking, *Report*, 1983.
11. *ibid.*, p. 591. The inspection concept has now become a practice of Victoria's Office of Police Integrity.
12. Committee of Inquiry – Victoria Police Force, *Report*, 1985.
13. Comments for this section are drawn generally from Board of Inquiry into Casinos Ordered by the Legislative Assembly, *Report*, 1983.
14. Comments for this section are drawn generally from Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report*, 1989.
15. *ibid.*, p. 6.
16. Commission to Investigate Allegations of Police Corruption and the Anti-corruption Procedures of the Police Department (Mollen), *Report*, 1994, see particularly the summary at pp. 1–9.
17. Royal Commission into the New South Wales Police Service, *Report*, 1979.
18. Royal Commission into the New South Wales Police Service, *Interim Report*, 1996, para. 2.82.
19. Los Angeles Police Department Board of Inquiry into the Rampart Area Corruption Incident, *Public Report*, 2000.
20. Chemerinsky, *An Independent Analysis of the Los Angeles Police Department's Board of Inquiry Report on the Rampart Scandal*, 2000.
21. Rampart Independent Review Panel, *Report*, 2000.
22. Royal Commission into Whether There Has Been Corrupt or Criminal Conduct by Any Western Australian Police Officer, *Report*, 2004.

Chapter 10

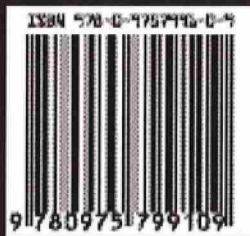
1. Gary Crooke, QC in the *Age* 29.09.06



Corruption, wherever and whenever occurring, is likely to arise from similar causes, and to exhibit similar characteristics. Recurrent patterns of misconduct and corruption feature in the 150 years of policing in Victoria. So do the reviews, royal commissions and inquiries instituted by various governments since 1853.

With limited tenure and restricted terms of reference, their recommendations were often compromised because of a lack of ongoing commitment to reform. Reactive 'one off' measures have made little or no contribution to building a corruption resistant culture within Victoria Police.

History will repeat itself and opportunistic or deliberate corruption will continue to occur without appropriate mechanisms in place to address them. The measures taken in recent times in Victoria and other Australian jurisdictions mean Police Forces and the external anti-corruption agencies are now positioned to provide an ongoing and sustained effort in building corruption resistance.



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