

The Honourable Margaret McMurdo AC
Commissioner
Royal Commission into the Management of Police Informants

C/o –

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By email: [REDACTED]

21 August 2019

Dear Commissioner

I have received a notice to produce documents issued on 21 August 2019 (NP-320). The notice concerns a letter I received dated 13 August 2019 requesting that I respond to five questions in relation to the Royal Commission into the Management of Police Informants.

Those questions, and my responses to them, are set out below.

Before addressing those questions, I set out some background information relevant to my responses.

Background

I am a barrister and member of the Victorian Bar. I signed the Roll of Counsel in May 2006. I was appointed as Senior Counsel in November 2018.

In about May 2010, I was retained by the Victorian Government Solicitor to act on behalf of three clients in a civil proceeding commenced by Nicola Gobbo in the Supreme Court of Victoria (the **Proceeding**). I was led by Michael Wheelahan SC (as his Honour then was) and Rowena Orr.

My clients in the Proceeding were the State of Victoria, Simon Overland (as Chief Commissioner of Victoria Police) and Christine Nixon (as former Chief Commissioner of Victoria Police).

I was involved in the Proceeding for about three months. My involvement included work in and around the preparation of a defence, appearance at a directions hearing held before the Honourable Justice Kaye in June 2010, and a mediation between the parties conducted by the Honourable Alex Chernov AC QC in August 2010. The Proceeding was resolved at the mediation.

Ms Gobbo's claim, the defendants' defence, and the settlement of the Proceeding, were reported in the media at the time. I believe the statement of claim and defence were placed on the court file and were publically available.

Aside from the Proceeding, I do not recall being involved in any another matter involving Ms Gobbo.

Question 1

Provide details of how you learned, or were given reason to suspect or believe, that a person, who had ongoing legal obligations of confidentiality and privilege was providing information or assistance to Victoria Police, including when that occurred and in what circumstances that occurred.

During the course of my involvement in the Proceeding, I do not recall learning, or being given reason to suspect or believe, the matters referred to in Question 1.

When Ms Gobbo alleged in the Proceeding that she agreed to assist Victoria Police by recording a conversation she had with Paul Dale in December 2008, and then providing a statement in respect of that recording, my understanding was that Mr Dale was not, or at least arguably not, Ms Gobbo's client at that time.

I do not recall during my involvement in the Proceeding being informed that Ms Gobbo (or any other person) was providing information or assistance to Victoria Police in other circumstances where she (or any other person) had ongoing legal obligations of confidentiality and privilege. If I was informed of such matters, I am not now able to recollect when or the circumstances in which that occurred.

Question 2

Detail how you learned, or were given reason to suspect or believe, that Ms Gobbo was providing information or assistance to Victoria Police, including when that occurred and in what circumstances that occurred.

I do not recall during my involvement in the Proceeding learning, or being given reason to suspect or believe, that Ms Gobbo was providing information or assistance to Victoria Police.

The only respect in which I recall learning about information or assistance Ms Gobbo had previously provided to Victoria Police related to her conversation with Paul Dale in December 2008 and the statement she made in respect of that conversation. I learned about these matters when I was briefed in the Proceeding in about May 2010 and read Ms Gobbo's statement of claim.

Question 3

Detail of when or how it became apparent to you that Ms Gobbo was or might be, a human source.

If the reference to "human source" in this question means a person who provided information or assistance to Victoria Police, please see my response to question 2.

If "human source" means something more specific, such as Ms Gobbo being a registered informer, I do not recall it becoming apparent to me during the Proceeding that Ms Gobbo was such a person.

Question 4

Details of your involvement in any matters in which the VGSO acted in which Ms Gobbo was:

- a. A party to the matter;**
- b. A primary consideration or a key player in the matter;**
- c. Proposed to be a witness, or was a witness in the matter;**
- d. The subject of documents subpoenaed, or sought to be subpoenaed;**

The only relevant matter I recall being involved in was the Proceeding. Details of my involvement in that matter (in respect of which Ms Gobbo was a party) are set out above.

Question 5

Given the Commission's first two terms of reference, namely:

- a. The number of, and extent to which, cases may have been affected by the conduct of Nicola Gobbo as a human source.**
- b. The conduct of current and former members of Victoria Police in their disclosures about and recruitment, handling and management of Nicola Gobbo as a human source.**

The Commission would be assisted by you providing any further details of any other matters within your knowledge potentially relevant to those terms of reference.

There are no further details of other matters with which I am able to assist the Commission.

Yours faithfully,



(Michael Rush)