

The following material constitutes my responses to queries raised with me by the Royal Commission into the Management of Police Informants in a letter dated 12th November, 2019, and a Notice to Produce to the Commission dated 14th November, 2019.

1. Relationship and Association with Nicola Gobbo

I was a friend of Nicola, we socialized together, she was my junior on a couple of occasions, and we were both involved with the Criminal Bar Association, which I founded back in 1978 and had chaired twice in the eighties.

We often lunched together, especially with a mutual friend, the late Steve Drazetic from Legal Aid. Nicola often spoke quite deprecatingly about the police, and gave no indication of any inclination to assist them, indeed, totally the contrary. I suppose I can best sum up my reaction upon eventually learning of her aiding the police and being an informer as that our good friend Steve, as she well knows, would 'roll in his grave' if he knew the truth.

I should emphasize that Nicola was an extremely hard-working, young barrister. On one occasion, she literally spent the entire night going through and preparing summaries and indexes of large boxes of essentially boring documents that Legal Aid had just discovered in an office of theirs, containing materials provided by the police as a result of our subpoenas prior to our then client, Bandali Debs' (Silk/Miller murder case) trial, but lost for months in their offices somehow. She was exhausted that morning. But the materials she prepared were both extremely detailed and impeccable.

She had almost an 'instant relationship' with all who practised in crime at the Bar, and many of the best-known solicitors. She was a formidable advocate in court, and appeared to me to have an extremely good knowledge of criminal law and procedure, although a mere minnow in terms of her years at the Bar.

Her major problem in my eyes was that she seemed to socialize far too much with a plethora of her clients. She constantly referred to instances where they were at her home, she at theirs, or they were drinking together somewhere. I told her she could not "run with the horses and the hounds", meaning be both a barrister and so closely linked to her clients, but it seemed water off a duck's back, and I put it down to a combination of insecurity and desire to be in the limelight (which may well have been one and the same thing).

I noticed that in the years after 2005/6, she seemed to be harder to find, to pin down, and

invites to lunch were unanswered, or else she said she would try to make it but almost never did. She always had excuses of sudden conferences in chambers, being trapped at a gaol, or being stuck in a magistrates court somewhere. Steve and I lost almost all personal social contact with her after that, although we still saw her around Owen Dixon Chambers et al.

It is fair to say that she originally had an impressive career as a criminal barrister ahead of her. I have often said since her career ground to a halt when the Dale allegations emerged publicly - "What a waste! What a bloody waste!"

2. My knowledge of Ms Gobbo's assisting police

I had no knowledge or even the slightest suspicion of her involvement with police until I heard about her association with Paul Dale and wearing a wire on at least one occasion, apparently in an attempt to assist the police to obtain incriminating evidence against him. I heard this via the media, as did everyone else. There was plenty of gossip about it then, but I knew nothing before that, and then no more than what was published in the media.

3. Any knowledge about cases affected by the conduct of Ms Gobbo as a 'human source'

I will deal with my sole involvement and source of such knowledge when I answer other issues below. In short, my only direct or indirect knowledge stems from my appearances and involvement regarding [REDACTED] (I will use his name here and you are welcome to alter it to whatever you wish in order to conceal his identity to the public.)

I also know nothing other than what I have read, in the last year or so, in the media and seen on television, from public hearing materials, concerning Ms Gobbo and her recruitment and handling by the police.

4. My involvement with [REDACTED]

In 2005, I was briefed by Valos Black to appear for [REDACTED] at the comittal hearing of [REDACTED], [REDACTED] and my client for the murders of [REDACTED] and [REDACTED], at [REDACTED]. I appeared in the Melbourne Magistrates Court before the then Chief Magistrate on the days of [REDACTED], [REDACTED] and [REDACTED].

[REDACTED] were committed to stand trial for murder. I remember that Con Heliotis QC acted for [REDACTED], instructed by Zara Garde-Wilson. Con was also appearing for Tony

Mokbel in drug-related committal proceedings at the same time, was often absent from court, and I offered to assist Zara with questioning of witnesses as it might have affected her client, as well as mine. There was quite obviously no remote suggestion that [REDACTED] and [REDACTED] for that matter, were at loggerheads or not running the same defence.

Regarding the strength of the case against [REDACTED] there was a lot more evidence, emanating from key witness [REDACTED] against [REDACTED] and [REDACTED] than against my client. [REDACTED] and [REDACTED] were also on committal for the murder of a man named [REDACTED] who was killed in a [REDACTED] in [REDACTED]. Police had a concealed tape in the murder car, which [REDACTED] drove to the scene of the killing, and he and [REDACTED] are heard to discuss the use of the gun, you heard the sounds of a gun discharging a number of times, then [REDACTED] gets back into the car and they flee. This heavily incriminating tape led to the police first arresting [REDACTED] who incriminated [REDACTED] as the man behind and paying for the killing; this in turn led to [REDACTED]'s arrest.

So [REDACTED] was in a lot of trouble, evidentially speaking. And now [REDACTED] was a Crown witness impugning him. But the case against my client revolved largely around the [REDACTED] allegations that he, [REDACTED] informed [REDACTED] where [REDACTED] was likely to be around mid-Saturday [REDACTED], and once drove in a car with [REDACTED] and [REDACTED] to see if indeed [REDACTED] was where he was said by my client to be on mid-Saturdays [REDACTED]. In my view, and after cross-examining [REDACTED] at the committal, I was very confident that we would obtain an acquittal for [REDACTED] of the [REDACTED] killings. I even had a joking \$2 'gentlemen's' bet with the informant, Stuart Bateson, having told him that I did not believe they could obtain a conviction against my client on "that evidence".

5. Knowledge of Ms Gobbo's involvement in [REDACTED] committal hearing.

Nicola, in discussions with me, seemed to be saying that she had acted for [REDACTED] at some time or another. Certainly, she did not seem to me to be in any way acting for him then, because I was! However, after the committal was over, she made certain remarks that indicated to me that she had seen [REDACTED] in custody since the committal. She fobbed off any attempt from me to find out what was going on, and I continued to be briefed for the trial. I don't believe she was to be my junior.

According to my fee book, I appeared on various pre-trial mentions (from memory, all before Justice Betty King) on [REDACTED], 2005; [REDACTED], 2006; [REDACTED], 2006; [REDACTED], 2006; [REDACTED], 2006; and [REDACTED], 2006.

During the course of these appearances, I learned that [REDACTED] had "rolled over". At one of the last two of these pre-trial mentions, we had a Basha hearing in front of King J, and I cross-examined [REDACTED] as he was now a Crown witness against both [REDACTED] and my client.

I suspect that someone else did the same on behalf of [REDACTED], although I am not sure about this. I remember telling [REDACTED], with whom I had built up trust in me, I think, whilst he was in the dock, that, in his best interests, he was now going to have to think very carefully what his future course in the case, and other cases, should be. I'm sure I would not have said this if counsel was actually present representing him at the time. I must confess I felt slightly disappointed at the number of times I saw him not physically represented by counsel at these hearings.

Obviously, I still had no idea of my client's possibly rolling over and becoming a Crown witness also. I still strongly believed that [REDACTED] and [REDACTED] were totally 'on the same page'.

On the last appearance, [REDACTED], something came up which meant the case needed to be delayed from its trial date. I recall Her Honour's annoyance, and I have a strong suspicion that the cause was some imminent surgery that I required. A remark was made at the Bar Table by the Crown which was the first hint that I got that [REDACTED] was thinking of becoming a Crown witness. I dismissed it as it was the first I had heard of it, and his solicitor had never remotely intimated such a turnaround. I put it down to scuttlebutt, and [REDACTED] said nothing about it to me.

6. Evidence that [REDACTED] wanted to speak to me, before he pleaded guilty, to establish whether he was "fucked". Did I ever tell him this or words like it? Did he have a defence?

After the Basha enquiry, I was now aware that [REDACTED] was somewhat more articulate and intelligent than what I had previously taken him to be. However, I still strongly believed that [REDACTED] had a quite reasonable chance of being acquitted. Although there were now two accomplices who implicated [REDACTED] they could not corroborate each other, and both had a myriad of reasons to lie to the police and present them with what they wanted them to say. [REDACTED] was what he demonstrated himself to be at the committal in the witness box – a pushover. In the case of [REDACTED] he was surrounded with evidence of his killing of [REDACTED] which I would have been able legally to put to him in cross-examination. He was, at [REDACTED] with the same man and used the same modus as in [REDACTED]. So [REDACTED] was desperately in need of something to reduce his likely sentence. He needed friends in the police and the Crown.

I never contemplated advising my client to consider pleading guilty to murder, or of offering a deal. Nor was anything along these lines raised with me by solicitor [REDACTED] - at any stage whatsoever.

Some time after [REDACTED], I learned that my client had indeed rolled over, indicated an intention of pleading guilty to murder, and made statements implicating [REDACTED]. I was quite shocked - twice over. One, because he did so, when I got no inkling of it from him (from memory, one was [REDACTED] at the other's [REDACTED] and I thought they were lifetime friends - they joked and chatted together in the dock); two, because [REDACTED] made no mention of it at all to me nor gave me cause for the slightest suspicion.

At no stage was I consulted, or asked to speak to [REDACTED]. I was never asked for my opinion.

In answer to the question - if it implies that I told him "You're fucked!", I did not say it, would not have said it in those words anyway, and it was quite contrary to my view of his chances. At no stage was I asked to speak to [REDACTED] about the future course of the murder case at all.

In the weeks ensuing, I heard on the grapevine that I was alleged to have told the client he was without a chance in the way alleged here. I was very cross when I heard it for the reasons adumbrated. If [REDACTED] was told that I had said he had no chance at a trial, it would have been a blatant lie. I must confess I put this rumour down to the need for [REDACTED] to explain why his client had rolled over.

Then Nicola told me that she was intending to do [REDACTED] plea for the murder of [REDACTED]! I immediately queried this, as we both knew she had acted for [REDACTED] in the past. As I told her then - "How can you act for a man who is now a Crown witness against your former client". She simply shrugged, and I heard no more of her doing the plea. I put it down to her vagueness in distinguishing a conflict of interest. Seemed to me she often acted for someone for whom, technically, she was obliged to decline taking instructions because of a prior legal involvement.

Then [REDACTED] rang me and asked me if I would do the plea for [REDACTED]. Whilst I wanted to give him a blast for keeping me so uninformed and not seeking any guidance or opinion from me, and to query the rumour I had heard, I decided that in the interests of the client, I should bite my lip and appear. So I said I would.

I never heard from [REDACTED] again - about the plea, nor anything at all for that matter. I received no papers, and as there had never been a date set for the hearing, I simply got on

with my other cases. I did not seek him out, as I was quite disappointed with the way things had been handled.

7. [REDACTED]

Again, I will use his name and you can make any editing you choose.

I first heard of Farouk Omar when Mick Gatto (who I have known for over 30 years, had coffee with, dined with, and regard as a friend, although we rarely see each other these days) told me in about 2005 that he was worried about a young bloke he knew that was being accused of being the driver in one of the underworld murders. He believed that Farouk was being set up. As far as I am aware, I never met Omar at all.

I much later learned that [REDACTED] was the central witness against Omar at his trial, and had made a statement implicating Farouk for the particular murder for which he was ultimately convicted. I had no idea about this at the time all of that happened, and believe I only learned after the trial of Omar of [REDACTED] key evidentiary role.

Ms Gobbo made no mention of Omar to me at any stage. The first I knew she was acting for him was when these issues were explored in evidence a few months ago at the Royal Commission.

I had also heard during the Commission's evidence, that Ms Gobbo purported to act for [REDACTED] at the time he became a Crown witness. This was all news to me, and immediately made me aware that his evidence against Omar must be seen as tainted.

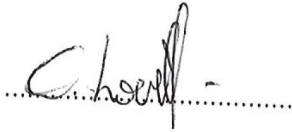
I am simply telling the Commission what it is already well aware of, but when Ms Gobbo was apparently talking [REDACTED] into rolling over, no doubt the more he could assist police investigations, in any murders in particular, would be seen to assist him maximizing his value to the Crown, and therefore reducing his sentence. So what [REDACTED] said about Omar's involvement in a murder case, would be tainted with his own lawyer's advices (or worse).

But I could not believe it when I realized from the Commission evidence, that Ms Gobbo was **also** acting (not purporting to, but was actually acting) for Omar at the same time she is 'encouraging' another of her clients [REDACTED] to hang him out to dry! And what this says about the police involved in this quagmire of deception, abuse of the criminal justice system, and misuse of police powers, I will leave it for others to state.

Put bluntly, I had no idea whatsoever she ever acted for **Omar**. I had no reason to believe

she did anything other than toy with the idea of doing the plea for [REDACTED] What I have heard this year emanating from the Commission has truly appalled me. And as an old, retired, criminal lawyer, it makes me very sad. As a former friend of Ms Gobbo, I am so bloody disappointed in her. Breaks my heart, actually.

Kind Regards

A handwritten signature in black ink, appearing to read "Colin Lovitt", written over a dotted line.

Colin Lovitt QC

14 November, 2019