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VICTORIA POLICE

Crime Department

412 St Kilda Road
Melbourne 3004
Victoria, Australia
DX: 210094

Telephone [REDACTED]

Facsimile [REDACTED]

Email [REDACTED]@police.vic.gov.au

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Officer in Charge
Driver Taskforce

Subject: Witness F

Current DALE Prosecution

1. Witness F is a prosecution witness in the up-coming Commonwealth prosecution of Paul DALE (hereinafter referred to as DALE) for offences relating to his alleged giving of false and misleading evidence at 2007 and 2008 Australian Crime Commission (ACC) hearings. These hearings were conducted at the request and on behalf of Victoria Police Petra Taskforce investigators, pursuant to the investigation into the May 2004 murders of Terence and Christine HODSON (Operation Loris refers).
2. The fundamental basis of the prosecution against DALE in the Commonwealth prosecution is a 7 December 2008 covertly taped recorded admission by him as to the accuracy of a statement made in April 2007 by Carl WILLIAMS, which detailed (among other matters referred to in paragraph 8 below) a corrupt relationship with DALE. This recorded admission belies the answers DALE gave at the ACC hearings.
3. The taping of the December 2008 admissions was undertaken covertly by Witness F.
4. On 7 January 2009 Witness F made a statement detailing her recording of DALE'S 7 December 2008 admissions and the fact that his admissions were not made in the context of a client-lawyer conversation.
5. Whilst the December 2008 recording is able to be admitted by a witness other than Witness F, F is required to give evidence to rebut DALE'S anticipated defence that his recorded conversation was and remains subject to lawyer-client confidentiality and hence inadmissible against him.

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6. The contested Committal for the Commonwealth prosecution is scheduled to commence on 7 November 2011.

Operation Loris Prosecution (1)

7. On 13 February 2009 DALE was charged with the May 2004 murder of Terrence HODSON by Petra Taskforce investigators.
8. The fundamental basis of the murder prosecution against DALE was the April 2007 WILLIAMS statement referred to in paragraph 2 above, in which WILLIAMS also alleges that DALE engaged him to have Terrence HODSON murdered.
9. Therefore, DALE'S 7 December 2008 recorded admission by him that WILLIAMS' April 2008 statement is accurate, is relevant evidence against DALE in respect of the HODSON murder prosecution and to this end, Witness F was listed and called as a witness at DALE'S contested murder Committal which was due to commence on 9 March 2010.
10. On 17 March 2010 Witness F was excused from giving evidence in the DALE murder committal for three months, due to her ill health and the giving of evidence by WILLIAMS was adjourned to 14 April 2010 and later to January 2011 due to outstanding subpoena material preparation and argument.
11. On 19 April 2010 WILLIAMS was murdered at Barwon Prison and on 4 June 2010 the murder charge against DALE was withdrawn.

Witness F Litigation

12. On 29 April 2010 Witness F commenced legal proceedings against Victoria Police. The basis of Witness F's claim, as detailed in her writ, was that in agreeing to make her 7 January 2009 statement she was promised and was of the belief that she would be provided with whatever protection measures were necessary to ensure her safety and that ultimately these measures were not afforded due to the inflexibility of the Victoria Police witness protection program regime.
13. In August 2010 the proceedings commenced by Witness F against Victoria Police were settled, on terms that are confidential.

Operation Loris Inquest

14. The deaths of Terence and Christine HODSON have not yet been subject to coronial determination.
15. A coronial inquiry into the deaths of the HODSONS is inevitable. Coroner COATE had indicated her intention to conduct an Inquest into the HODSON'S deaths, probably in 2012. The Inquest will attract wide public and media interest and scrutiny.
16. Witness F is a relevant witness in relation to the deaths of the HODSONS and therefore a relevant witness in the Inquest Brief pertaining to their deaths. She is likely to be called to give evidence at the Inquest.

STRICTLY CONFIDENTIALOperation Loris Prosecution (2)

17. Depending upon what emerges from the Operation Loris Inquest and in light of recent changes to the Evidence Act pertaining the admissibility of otherwise hearsay evidence (applicable to WILLIAMS' statements), investigators propose to submit a brief of evidence against DALE for the murder of the HODSONS to the OPP for consideration.
18. In a recent prosecution against David MCCULLOCH for giving false and misleading evidence at an [REDACTED]
19. In the event of not being admitted in any future DALE murder prosecution under the amended provisions of the Evidence Act, it will be argued that WILLIAMS' statement ought to be admitted as an exhibit, based on DALE'S 7 December 2008 adoption of it as accurate and true. This argument is to be put by the Commonwealth in DALE'S forthcoming Committal, as is the MCCULLOCH decision.
20. Again, Witness F is a relevant witness in relation to the deaths of the HODSONS and therefore a relevant witness in any criminal brief of evidence concerning their murders.
21. Whilst Witness F's statement could be excluded from the Loris murder brief, should a prosecution proceed, she would invariably be requested to be called by the defence and/or material would invariably be sought relating to her engagement by Victoria Police.

Operation Nutation Investigation and Proposed Prosecution

22. On 5 December 2003 DALE was charged with Terence HODSON and David MIECHEL in relation to the 27 September 2003 burglary at 23 Dublin Street, Oakleigh and conspiracy to traffick the drugs intended to be stolen from the address (Operation Nutation refers).
23. The basis of the burglary and conspiracy charges against DALE was the October 2003 statement by Terence HODSON implicating DALE and MIECHEL in the planning and execution of the burglary and conspiracy to traffick.
24. Upon the May 2004 murder of Terrence HODSON, the burglary and conspiracy charges against DALE were withdrawn.
25. In light of recent changes to the Evidence Act pertaining to the admissibility of otherwise hearsay evidence, investigators propose to submit a brief of evidence against DALE for the murder of the HODSONS to the OPP for consideration.
26. To this end, it ought to be noted that HODSON'S statement against DALE was made contemporaneously to his and DALE'S alleged offending and has been substantially corroborated, both alternative preconditions of section 65 of the Evidence Act 2008.
27. In her 7 January 2009 statement about her relationship with DALE and the recording of DALE'S 7 December 2008 admissions, Witness F also details material relevant to Operation Nutation.

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28. To this end Witness F is again a relevant witness against DALE in a possible prosecution.
29. Further, in the course of the management of Witness F in relation to DALE'S forthcoming Commonwealth prosecution, she has disclosed information that would further corroborate HODSON'S statement against DALE and indeed directly implicates DALE. Witness F has further stated that she may be willing to make a statement to investigators about these additional matters, conditional upon her being afforded satisfactory witness protection.

Human Source Considerations

30. In the course of the preparation of subpoena material relative to DALE'S forthcoming Commonwealth prosecution, it has become apparent that at the time Witness F recorded DALE'S 7 December 2008 admissions, she was a Victoria Police registered human source and indeed had earlier (but not on this particular occasion) been tasked to engage in conversation with DALE about the murders of the HODSONS.
31. Ordinarily, claims of public interest immunity would be mounted to protect this human source related information, however, if it is relevant to any defence DALE may raise that his conversation with Witness F on 7 December 2008 was a privileged conversation between client and lawyer, it may have to be disclosed to DALE'S defence.
32. This would have the effect of "outing" Witness F as a human source.
33. It has further become apparent that Witness F, as a registered human source, has provided valuable intelligence to Victoria Police about a large number of high level criminals.
34. Should any material relating to the scenario articulated in the paragraph immediately above have to be disclosed, Witness F's safety will be placed in greater danger.
35. It is apparent that no material relative to Witness F's status as a registered human source was prepared for disclosure or argument pursuant to any of the several subpoena's issued during the course of the DALE murder prosecution, although it should be noted that at the time of the withdrawal of the murder charge against DALE, material was being prepared in response to a further subpoena.

Prosecutorial Considerations

36. In light of the inherent dangers to both Witness F and Victoria Police relating to the revelation of Witness F as a former registered human source, consideration has been given to seeking to discontinue the Commonwealth prosecution against DALE.
37. The Commonwealth DPP may or may not continue the prosecution against DALE. The Commonwealth may continue the prosecution against DALE without calling Witness F. The Commonwealth prosecution against DALE may proceed with material relating to Witness F as a registered human source never being disclosed. The Commonwealth prosecution against DALE may proceed with material relating to Witness F as a registered human source only against DALE being disclosed.

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38. Which ever scenario eventuates, Witness F remains a relevant witness in relation to the 2003 Dublin Street burglary and the 2004 murders of the HODSONS.
39. Even if neither of these investigations lead to criminal prosecutions, an Inquest into the death of the HODSONS will invariably be held, at which time those matters relating to Witness F as a registered human source and the circumstances in which and against whom she has provided information has the potential to be revealed.

Safety Considerations

40. In the course of the management of Witness F in relation to DALE'S forthcoming Commonwealth prosecution, she has expressed her cognisance of (a) her role as a human source and the circumstances in which and against whom she has provided information and the imperilled position she would be placed in should this be revealed, (b) the possibility of this being so revealed, (c) the reality that should this be so revealed she would most likely be killed unless steps were taken to ensure her the protection, (d) the need for her to [REDACTED] probably [REDACTED] among other protective measures and her willingness to reengage with the Witness Security Unit (subject to the application of some agreed flexibility in the application of the standard protective measures and her adoption of the residual risk) or to participate in a protective regime managed by a body other than the Witness Security Unit.

Witness Protection

41. Upon making her January 2009 statement relating to DALE, Witness F was engaged by the Witness Security Unit, with a view and a desire by both Victoria Police and Witness F to implement protective measures, however it soon became apparent that the parties to this engagement could and would not agree on the scope of those protective measures.
42. In her 29 April 2010 writ against Victoria Police, Witness F alleges that it was this intractability around her protection, notwithstanding certain alleged representations that were made to her about the flexibility of the protective regime, that led to her commence litigation.
43. Pursuant to the forthcoming Commonwealth prosecution PII [REDACTED] Victoria Police PII [REDACTED] the [REDACTED] PII [REDACTED] reengaged with Witness F and in PII [REDACTED] PII [REDACTED] assessed her as unsuitable for protection due to her refusal to agree to a number of key [REDACTED] conditions.

Conclusion

44. Notwithstanding the apparent intractability between Witness F and the Witness Security Units, given that Witness F presently remains a relevant witness in respect of one prosecution on foot, two further possible prosecutions and a certain Coronial inquiry, Victoria Police remains associated with Witness F as a witness and as a witness who is assessed as presently at risk and potentially at far greater risk should her role as a human source be revealed.

Request

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45. In light of the circumstances detailed above I request that either a less rigid regime of protection be considered by the Witness Security Unit, subject to Witness F adopting any residual risk, or that Witness F's [REDACTED] and [REDACTED] be managed by a body other than the Witness Security Unit and that both these options be negotiated with Witness F by a Victoria Police member of sufficient rank and authority to make such decisions and directions.

46. For information and consideration by the Driver Taskforce Steering Committee.

~~Boris BUICK~~

~~Detective Senior Sergeant 27498~~

BUICK ORIGINAL