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Statement - Royal Commission into Management of Police Informants

Statement of ^{Fox-O}

STATES:

1. I am making this statement in response to a request from the Royal Commission into the Management of Police Informants. This statement is submitted to the Royal Commission in response to a 'Notice to Produce' made under the Inquiries Act 2014.
2. Where possible, I have referred to pseudonym names in accordance with exhibit 81 of the Royal Commission.
3. I was a ^{PII} source handler of registered human source 21803838 from June 2007 to January 2009. During this time I was gazetted to the Victoria Police Source Development Unit.
4. This statement is not complete due to delays in access to relevant documents and time required to review the voluminous material created by the Victoria Police Source Development Unit between 2005 – 2009. In order to comply with a direction to submit by 22 May 2019 and compile annexures (1) and (2), I provide the following response;

1. Detail your educational background and employment history, including progression through the ranks and roles assigned.

5. I have completed the Victorian High School Certificate (now VCE) and hold a diploma of Business (Front Line Management) 2008.
6. I have been a member of Victoria Police for ^{PII} years. A summary of my duties is as follows;

^{PII} – general duties.

- a. Uniform Police stations ^{PII} 1990 - 1994
- b. District Crime Tasking Team – 1994
- c. District Support Group – 1995 to 1996

^{PII}

- d. District Criminal Investigation Branch – 1996 to 1998
- e. ^{PII} Squad – 1998 to 2003

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PII [REDACTED] Rank

- f. [REDACTED] uniform station - 2003
- g. [REDACTED] uniform - 2004

PII [REDACTED] Rank

- h. [REDACTED] Squad - 2005
- i. District Support Group, 2005 - 2006
- j. Source Development Unit, 2006 - 2010

PII [REDACTED] Rank

- k. [REDACTED] uniform station 2009

PII [REDACTED] Rank

- l. Divisional Criminal Investigation Unit - 2004
- m. Divisional Investigation and Response (I&R) LAC - 2010 to present

PII [REDACTED] Rank

- n. Various Divisional and Crime management roles, portfolios and periods - 2011 - 2019

7. I hold the following relevant qualifications within Victoria Police;

- a. Detective Training School - PII [REDACTED]
- b. PII [REDACTED] Management Course - PII [REDACTED]
- c. Leadership Development Course (Airlie) - PII [REDACTED]
- d. Investigation Management Course - PII [REDACTED]
- e. PII [REDACTED] Management Course - PII [REDACTED]
- f. Discipline Investigation Course - PII [REDACTED]

8. I have received the following professional awards;

- a. District Commendation - 1991 for the arrest of a violent armed offender
- b. Divisional Commendation - 1999 for a child sex investigation and prosecution
- c. Victoria Police Service medal - 2001
 - i. 1st clasp 2008
 - ii. 2nd clasp 2012
 - iii. 3rd clasp 2017

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- d. Chief Commissioners Commendation for exemplary service, outstanding commitment to duty and investigation skills for a [REDACTED] investigation – 2003
- e. National Service Medal – 2006
- f. Departmental Commendation – 2010 for exceptional and professional investigation management of a [REDACTED] Squad operation
- g. Divisional Commendation – for exceptional initiative and investigation skills during a complex criminal investigation (unit citation)
- h. Mick Miller Command Award – for outstanding & exemplary service, professionalism and investigative capacity (unit citation)

2. *Detail your training and experience in respect to the handling and / or management of human sources.*

9. I have been trained in the following human source management courses;

- a. Human Source Management Course [REDACTED] – 2006
- b. Human Source Management Course [REDACTED] – 2006
- c. I have been involved in the training of other Victoria Police high level source management courses ([REDACTED]) from 2007 – 2015. The [REDACTED] course became a recognised national course. These courses also serve as a valuable refresher to keep source management skills current, as I believe it is a diminishable skillset if not maintained in training and practice.
- d. Throughout 2006 – 2010 I managed numerous high risk human sources for Victoria Police including source 21803838.
- e. Since [REDACTED]^{PII}, I have performed the Officer in Charge role for the management of human sources within my Divisional I&R LAC
- f. Prior to 2006 I was involved in managing a number of human sources to progress criminal investigations at various crime units I worked. None of them had had any professional privilege attached to them.
- g. Throughout my extensive dealings with human sources in my career, experience tells me that human sources are;
 - i. never to be trusted
 - ii. closely controlled
 - iii. clearly tasked
 - iv. ethically and professionally managed
 - v. continually assessed for their viability against the risks. These risks being around risk to the source, Victoria Police, the handlers, information and the public

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- vi. accountably reported to senior management in accordance with force
policy and the law

Source Development Unit (SDU)

3. *Provide details of your involvement, if any, in the development by Victoria Police of the SDU.*
 4. *Provide details of any national or overseas travel you undertook as part of the development of the SDU.*
 5. *Provide details of your awareness of the involvement of officers of Victoria Police more senior in rank than you in the development of the SDU.*
 6. *Provide details of your awareness, if any, of any policies and procedures adopted in other states or countries in relation to the management of human sources who are subject to legal obligations of confidentiality or privilege.*
10. I had no development in the creation of the Source Development Unit. When the positions of the pilot became permanent and the unit expanded in 2006, I was successfully accepted as a ^{PII} [REDACTED] (Handler). The unit was initially called the Dedicated Source Unit, later in 2006 the name was changed to the Source Development Unit to better reflect the work and aims of the unit.
 11. The special requirements of the position (*NPD1748 dated 22/12/2005*) were;
 - a. Initial assignment 3 years at the Dedicated Source Unit, Intelligence and Covert Support Division.
 - b. Assignment will be subject to psychological assessment / evaluation
 - c. Passed highest level Ethical Standards Department probity check.
 12. I commenced duties at the 'Dedicated Source Unit' on 28 June 2006. During that time I held a national security clearance at 'SECRET' level.
 13. I did not take any national or international travel to develop the Source Development Unit (SDU).

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14. It is my belief that the following officers more senior in rank to me had an involvement in the development of the SDU and Informer Management Policy;
- a. Commander Danyne Maloney
 - b. Acting Commander Ian Thomas
 - c. Human Source Steering Committee
 - i. I am aware that various executive level managers were part of and attended these meetings in 2004 & 2005 including the 3 officers mentioned above.
 - d. Corporate Management Review (CMRD)
 - i. Inspector Feather
 - ii. Inspector Townsend
 - e. Dedicated Source Unit Project Team.
 - i. Project owner - Deputy Commissioner Peter Nancarrow
 - f. Superintendent Tony Biggin
 - g. Detective Inspector Doug Cowlishaw
 - h. Detective Senior Sergeant Geoff McLean
 - i. Detective Senior Sergeant Glenn Owen (Informer Management Unit)
 - j. Sandy White-O
15. Sandy White-O has kept extensive documents of the development, set up and audit of the Dedicated Source Unit pilot and implementation of human source policy. He is best positioned to answer this question in detail. (Refer ^{Sandy White-O} statement)
16. It is my belief that best practice policies and procedures regarding human source management were sourced from United Kingdom, Ireland, Canada, USA (FBI and New York) and South Australia. I am aware that ^{Sandy White-O} and Glenn Owen travelled to Canada to observe and participate in the Canadian Police high risk human source handling course. Canada was seen as best practice in training and management of human sources. This was circa 2005. The bulk of this course formed the training and syllabus for the SDU [REDACTED] high risk human source training courses.

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Use of Ms Gobbo as a Human Source

7. *Provide details of any:*

- a. contact you had with Ms Gobbo prior to your work at the SDU;*
- b. knowledge you had of Ms Gobbo's use as a human source, prior to your work at the SDU.*

17. I had no contact with source 3838 prior to managing her as a human source at the SDU. Every contact I had with 3838 subsequent to meeting her was either audio recorded or detailed in my diary and Informer Contact Report (ICR). All face to face meetings were pre-approved by my controller. Every time I handled 3838 a 'change of nominated participants' form was submitted and approved by the Local Informer Registrar (LIR), Superintendent.

18. I was aware of 3838's prior conviction for drug use and possession in Carlton in 1993. I was not aware of her previous involvement as a registered human source with Victoria Police. I am disappointed that the SDU were not told of her past registrations as this would have greatly assisted the handlers and controllers in effectively managing the source and assessing risks between 2005 – 2009.

8. *Provide details of the management of Ms Gobbo as a human source, including:*

- a. the structure of that management;*
- b. whether any procedures or processes were put in place to manage the use of information provided by Ms Gobbo; and*
- c. whether any procedures or practices were put in place to manage the risks arising from the use of information provided by Ms Gobbo.*

19. The management structure of 3838 was as follows;

- a. 5 x SDU handlers were exposed to the source and rotated to manage workload, welfare and ethical management. These were ^{Peter Smith-O} , ^{Black-O} , ^{Green-O} , ANDERSON, ^{Wolf-O} and myself. Handler changes were recorded on a 'change of nominated participants' Victoria Police form and submitted to the Local Source Registrar for approval. These were recorded and filed at the Informer Management Unit.
- b. All handlers for 3838 reported to the Controller. This was ^{Sandy White-O} . ^{Sandy White-O} Even when on recreational leave, significant events would be reported to ^{Sandy White-C} regarding management of 3838.

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- c. The SDU had various part time Inspectors overseeing the unit until mid-2009 when a full time Inspector was appointed. This was Inspector John O'Connor. Inspectors performed the role of the Officer in Charge (OIC).
- d. Because of the part time and dual responsibility role played by previous Inspectors, their presence was effectively an administration role. It is fair to say that ^{Sandy White-O} was effectively the Officer in Charge of the unit and had the most hands on role in line with the responsibilities set out in the Informer management policies circa 2004-2009. ^{Black-O}
^{Black-O} was second in charge.
- e. The Inspectors reported to Superintendent Biggin. Superintendents performed the role of the Local Source Registrar.
- f. The SDU was overseen by the Informer Management Unit (IMU). Its role was to provide policy and procedural advice to members in relation to the 'Informer Management Policy' as well as audit source registrations and manage the reward process. The IMU is now called the Human Source Management Unit (HSMU)
- g. The IMU was overseen and managed by the Central Source Registrar. This role has overall management of all sources and the human source management policy for Victoria Police. I believe for the relevant period 2005-2009 this was Superintendent Mark Porter.
- h. This management process and structure was no different to any other high risk human source managed at the unit. It was in line with Victoria Police policy at the time. I refer to Informer Management policies;
 - i. Chief Commissioner Instruction (CCI) 06/04 (22 September 2004)
 - ii. CCI 03/05 (issued 20 September 2005)
 - iii. VPM 111-3 (2007 - 2010)
- i. All meetings with 3838 were pre-approved by the controller.

20. Management in place regarding the use of information obtained from 3838 was as follows;

- a. All contact with 3838 was recorded. Face to face interviews were audio recorded and notes taken in the Victoria Police official diary (PB13).
- b. Telephone calls were all recorded in our official diaries. Initially the PB13's were hand written.
- c. Notes handlers made were then transposed into a formal 'Informer contact report' (ICR). This form was called VP1092A.

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- d. The sheer volume of information and contacts generated by 3838 necessitated that we moved to electronic diaries to keep up with timely submission of ICR's. This occurred in mid-2007, after the Vic Pol I.T. refresh when we were issued with portable laptops and 3G access to the Victoria Police network.
 - e. Information recorded on our ICR's covered intelligence, dissemination of that intelligence, welfare, risk management, tasking, SDU management issues and 3838's movements for her safety.
 - f. ICR's were submitted to the controller for review and approval. Completed ICR's were forwarded to IMU for recording on the source file. A copy was also kept at SDU.
 - g. SDU had a unit specific ICR that could span 7-10 days of contacts. This was approved by IMU to allow us to manage the volume of work we produced. This was not only for 3838 but all high risk human sources we were managing at the time.
 - h. Audio recording files were kept at SDU on a secure hard drive. Copies were burnt onto DVD's and submitted to IMU for inclusion on the source management file.
21. No information was released outside the SDU without approval from the controllers. Relevant intelligence would be highlighted on the ICR and an Intelligence report produced for review. These intelligence reports were written in a sanitised format to ensure the reader could not identify the source of the information or the author. The intelligence was assessed by the controller and distributed to either current Squads or Task forces with active investigations, or centrally to the Victoria Police State Intelligence Division (SID).
22. Information Reports (IR) released from the SDU were also recorded on an IR matrix spreadsheet. This matrix recorded the IR number, the source it came from and when and where it was disseminated. SDU had a bank of allocated numbers and we would randomly select numbers so that one long number sequence could not be attributed to any one source of information. This was another risk mitigation strategy to ensure the confidentiality of the source identity.
23. Verbal dissemination to authorised personnel sometimes occurred to assist in a timely manner with investigations. This was later followed up with a formal Information Report (IR). Around the time I begun handling 3838, formal intelligence

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reports were rarely being produced due to the assessed risk of compromise. Some intelligence was being disseminated verbally to authorised personnel and this was recorded on the ICR and SDU member's official diary. As with IR's, no verbal information was released without approval from the controller. This verbal release was in the same sanitised format as hard copy IR's. Whether information was released or not, it was recorded in member's diary and ICR. SDU took our role of sanitised information sharing seriously.

24. Information was sanitised and often not disseminated for reasons such as;
- a. The intelligence could identify 3838
 - b. The intelligence was unreliable, speculative or needed more verification
 - c. The intelligence could be classified as legal professional privilege
 - d. Other organisational priorities meant that there were no available investigators to action the intelligence. These organisational priorities were set by executive steering committees such as;
 - i. the Controlled and Major Drug Operations Committee (CAMDOC), and
 - ii. the Drug Investigation Targeted Committee (DITC)

Both of these steering committees were attached to the Crime Department.

25. The procedures in place to manage the risk of 3838 were detailed and varied. Informer management policy required a risk assessment to be submitted once the source becomes registered. For 3838 this was done formerly twice on VP Form 1091 (version 09/03). Once at registration in November 2005 and a second update in April 2006. VP form 1091 required handlers and controllers to assess the risks across five areas being;
- a. Risk of source being compromised
 - b. Risk of handlers / controllers being compromised
 - c. Risk to integrity of the information
 - d. Risk to Victoria Police of exposure
 - e. Risk of harm to the public.

26. The risk assessment was developed by IMU and was based on Australian and New Zealand standard (AS/ANZ4360:1999/2004). It was called the 'Human Source Risk Assessment Manual'. The manual required the identification of a risk, then the addition of numerical standards applied to the likelihood of that risk occurring and the impact it will have if it did occur. The risk assessment was prepared in a narrative format which specifically identified those circumstances applicable to the

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source under consideration. A risk rating was allocated based on qualitative measures of likelihood and consequence. The final risk rating could be; high, significant, moderate or low. The risk assessment required control measures to be put in place and then a second risk rating determined based on the subjective assessment of the control measure affect. This determined the final risk rating of the source. The risk assessment was completed by the handler, reviewed by the controller and assessed and authorised by the LIR (Superintendent). Once the risk assessment was submitted, IMU completed a final review of the document and could recommend any additions or changes deemed required. The form was then filed in the source management file held at IMU. SDU kept a copy.

27. VP1091 was required to be prepared in a narrative format. For high risk sources this was a cumbersome document. It took considerable time to prepare. The risk assessment was submitted after the assessment period which sometimes was [REDACTED] or more meetings in order for the handler to have a full appreciation of the risks surrounding the source.
28. In terms of 3838 as the risks and issues grew around her management, it became apparent that VP1091 was not a fit for purpose document for the dynamic changing nature of the source and the risks surrounding her. Risks could rise and change almost daily to the point that a risk assessment could be outdated within weeks.
29. Furthermore, VP1091 was not a fit for purpose document in reporting up. The document required narrative format which often meant the risk assessment could be pages long. Risks could be lost in the narrative or grouped into succinct sentences that lost the full meaning and appreciation of the risk. This is why a Strengths Weaknesses Opportunities and Threats (SWOT) analysis risk assessment was submitted to executive command in the later stages of her management with SDU.
30. To maintain currency in risk management with 3838 the SDU documented risks in our ICR's, source management log (SML) and weekly / fortnightly operation meetings. Risks were reported up to senior management in the form of Issue Cover Sheets (ICS) and SWOT analysis documents. It can be seen from our contact reports and audio recordings with 3838 that SDU were constantly identifying and implementing risk management contingencies to effectively manage the source. This was a whole of office approach where everyone had input. Weekly operational meetings would also be regularly attended by the SDU Inspector.

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31. It was an organic process and certainly SDU made recommendations over the years to IMU in improving the organisational standard of the risk assessment process to what it is today.
32. In terms of legal professional privilege, this was part of the risk assessment process around the origin of the information obtained from 3838. In consultation with the controller a decision was arrived as to whether the information could be disseminated. This was recorded on the SML and the ICR. There was no expectation or intention that 3838 would provide LPP information. Already established management practices were in place by the time I began handling 3838 where LPP was not sort or disseminated.

9. *Provide details of the involvement or oversight by senior officers who had management, oversight or control of the SDU of the SDU's use of Nicola Gobbo as a human source.*

33. It is my belief and recollection that the following senior officers in charge of the SDU and higher had knowledge, management and oversight of the SDU and the SDU's use of 3838 as a human source;
 - a. Detective Senior Sergeant Glen Owen (IMU)
 - b. PII (HSMU)
 - c. Inspector Geoff McLean (IMU)
 - d. Inspector Doug Cowlishaw
 - e. Inspector Rob Hardie
 - f. Inspector Dean McWhirter
 - g. Inspector Andrew Glow
 - h. Superintendent Tony Biggin

10. *Provide details of person(s) you believe were involved in the authorisation, and continued authorisation, of the use of Ms Gobbo as a human source, including the name of the person(s); the role of those person(s); and the basis of your belief.*

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34. It is my belief and recollection that in addition to the names listed in the above paragraph, the following persons and senior officers were also involved in the authorisation and continued authorisation of the use of 3838 as a human source;

- a. Superintendent Rod Wilson – Central Source Registrar
- b. Superintendent Mark Porter – Central Source Registrar
- c. OIC's and Inspectors in charge of the Informer Management Unit
- d. Informer payments committee (IPC)
- e. Detective Inspector Hill (now Assistant Commissioner)
- f. Commander Purton
- g. Acting Commander Thomas
- h. Assistant Commissioner Maloney
- i. Assistant Commissioner Overland

11. *Provide details of your understanding of Ms Gobbo's motivations for becoming a human source, including:*

- a. her initial motivations for assisting Victoria Police; and*
- b. her motivations for providing ongoing assistance to Victoria Police in that manner.*

35. 3838's motivations for becoming a human source are well documented. It was explored during the first 3 or 4 face to face assessment meetings in 2005 (contacts 1, 9, 19, 32, 87) and documented in risk assessments 1 & 2;

- a. The source wanted to rid herself of the Mokbel cartel who had consumed her life and caused her great stress. This culminated in a stroke in 2004. 3838 said that the Mokbel's had ruined her life.
- b. The source had become too close to her clients to the point that her only social circles were serious organised crime figures of Melbourne. They manipulated her to point she realised she had no friends
- c. The source had been blackmailed, threatened and intimidated by the Mokbel cartel and increasingly asked to pervert the course of justice to protect their drug empire. The source had various death threats that she believed were sanctioned by the Mokbel's to ensure allegiance to the crime cartel. 3838 saw no way out alive other than police assistance.
- d. The source wanted to do the right thing. She was increasingly being pressured to do things by the Mokbel cartel against her moral compass and the law.

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- e. 3838 was also frustrated with high level criminals constantly getting away with very serious crimes, drug importations and earning millions in the proceeds of crime that police were not able to detect, prosecute or prevent.
 - f. To achieve this, 3838 was driven in giving her best at all times and being the best in everything she did.

- 36. The source was also motivated to assist with the Hodson murders. It became apparent over time that she had maybe unwittingly assisted with the passing of information, phones and/or documents between parties that ultimately led to the Hodson murders. The source feared being forced to give evidence in coercive hearings against Tony Mokbel regarding this matter. This would get her killed. Her fear especially escalated upon Mokbel's return to Australia.

- 37. Her involvement, whether inadvertent or intentional, was ultimately a matter for Task Force Petra to investigate. SDU assisted with relevant intelligence to Petra when required and eventually facilitated handover of the source to Task Force Petra as a witness. The circumstances surrounding this are documented in detail in ICR's, audio recordings and SML's.

- 38. Motivations can change over time but with 3838 it was fairly constant. The above were 3838's core motivations.

- 12. *Provide details of any conversations you had with Ms Gobbo relevant to and / or dealing with;*
 - a. *her Legal Professional Privilege (LPP) and confidentiality obligations or other duties in respect of her clients;*

- 39. I had some conversations with 3838 regarding LPP and her obligations. I have not had full opportunity to review all material. The following I have located to date are;
 - a. ICR089 on 15-Jul-07 (Contact 2581)
 - b. ICR089 on 14-Jul-07 (Contact 2576), and
 - c. ICR083 on 15-Jun-07 (Contact 2417)

ICR089 talks to her obligations at OPI and her duty to tell the truth if not LPP. The other talks about her obligations of privilege compared to knowingly being aware of serious criminal offences being committed. This is a moral issue for her.

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40. SDU were not interested in anything concerning client instructions in matters previously, currently or pending before the courts. If information was inadvertently received through general conversation it was not disseminated. This was documented on the ICR. This generally came about during discussions or fears for her safety. What intelligence was disseminated is clearly documented in my ICR's, Information Reports and official police diary.

b. acknowledgement by of her responsibilities as a Human Source;

41. By the time I began handling 3838, well entrenched management control parameters had been set regarding her 'Acknowledgement of Responsibilities'. I frequently discussed control parameters with her and reinforced existing SDU controls measures already in place. They are documented in my ICR's and diary entries.

c. assessment of risks associated with her use as a Human Source;

42. To maintain currency in risk management with 3838, I documented risks in my ICR's and diary and reported these to the controller. Risks were also raised and discussed at the weekly / fortnightly operation meetings. This was a whole of office approach where everyone had input. Risks were reported up to senior management by the controller. It can be seen from my contact reports and audio recordings with 3838 that I was constantly identifying and implementing risk management contingencies to effectively manage the source.

d. her motivations to act as a human source;

43. I have previously answered this question under question 11.

e. indications of criminal conduct or other adverse motivations on her part;

44. In regards to indications of criminal conduct, the source sometimes feared being 'knowingly involved' in importations of drugs when she was told information from certain acquaintances. Often they were showing off to her about importations coming into the country (e.g. Karam). This motivated her to tell myself and other handlers to demonstrate she was not complicit. The circumstances surrounding the 4 tonne MDMA import in June / July 2007 is an example of this. I had no suspicions that 3838 was involved in any criminal conduct whilst she was with SDU.

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f. matters of concern as to the use of Ms Gobbo as a human source such as her mental or physical health;

45. In terms of her physical health, I documented 3838's stresses and medical treatment she was receiving in the ICR's and official police diaries I completed. These were reported to the controller as risks. I was satisfied that 3838 was getting appropriate medical treatment for these conditions and illnesses. My assessment was that all her medical conditions were a direct result of the stresses in her life, including her involvement with SDU. I constantly tried to persuade 3838 to finish up as a human source and pursue a new career or cut ties and leave Melbourne. I had various conversations with 3838 about new career options or places she could go that fed into her main motivation of ridding herself from the Mokbel cartel. This was an agreed strategy used by all handlers to reduce her stress and start a new life. Ultimately 3838 chose not to take those options.

46. I am aware that SDU organised a psychologist to assess 3838 in late 2006 / early 2007. 3838 attended several meetings but ultimately stopped as she felt they were a waste of time. 3838 had little respect for the psychologist. The psychologist did not report back adverse mental health conditions for 3838. There was no suspicion or concern from me or other handlers that 3838's stresses or emotional health made her an unreliable human source or a mental health risk.

13. Provide details of any knowledge you had of Ms Gobbo providing information or intelligence to any person or organisation outside the SDU.

47. I was aware that 3838 provided information to the Office of Police Integrity (OPI). She disclosed this to me in July 2007. This was due to her safety and very real fear of being exposed as a human source at OPI hearings. I reported this to my controller and ultimately to senior members of Victoria Police who spoke to OPI regarding her safety. I believe this was Detective Inspector Gavin Ryan and Assistant Commissioner Overland. All conversations with 3838 regarding this were documented on my ICR's or on audio recordings at face to face meetings. 3838 was fearful of attending because of the risk of her compromise as a human source. I constantly reminded her of her obligations at coercive hearings and urged her to tell the truth.

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48. I am also aware that 3838 provided information to Petra Task Force which was ultimately the reason she was deactivated as a source from SDU.

14. In relation to the following people:

- ☐ Faruk Orman;
- ☐ Tony Mokbel;
- ☐ [REDACTED]
- ☐ Zlate Cvetanovski;
- ☐ [REDACTED]
- ☐ [REDACTED]
- ☐ Rob Karam;
- ☐ Pasquale Barbaro;
- ☐ Severio Zirilli;
- ☐ Salvatore Agresta;
- ☐ Pasquale Sergi;
- ☐ Francesco Madaferri;
- ☐ Giovanni Pollinetti;
- ☐ John Higgs;
- ☐ Sharon Ropa;
- ☐ Tony Sergi;
- ☐ Ken Tang;
- ☐ Carmelo Falanga;
- ☐ Pino Varallo;
- ☐ Jan (John) Visser.

15. Provide details of:

- a. information received from Nicola Gobbo in respect of those people;
- b. the dissemination of any such information including the method of dissemination and the persons to whom it was disseminated.

49. I have provided annexure (1) at the end of this statement that lists all contacts made with SDU handlers and 3838. There were 5040 individual contacts from 16 September 2005 to 13 January 2009. SDU handlers recorded these contacts on Informer Contact Reports (ICR's). These ICR's spanned a contact period of 7 to 10 days maximum.

a. For registration 21803838 there were 119 ICR's created.

b. For registration 11792958 there were 53 ICR's created.

The annexure (1) table lists where each contact appears on the SDU ICR.

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50. I have provided annexure (2) at the end of this statement that details contact reports where the names referred in question 14 are mentioned. This is detailed by name, ICR number and relevant handler. Information disseminated from this intelligence is documented in the SDU ICR's, including method of dissemination and IR number. Dissemination is also recorded on 3838 SML and in the SDU IR matrix. This list is a guide only due to different spellings and initials used, limitations of my search capacity and time constraints. I will continue working on this list after submitting this statement to assist the commission further.

51. Having completed annexure (2), it is my assessment that dissemination of intelligence from 3838 was tight within a restricted handful of authorised liaison officers within the Crime Department. It demonstrates that the sterile corridor was effectively maintained.

16. *Provide details of your knowledge or understanding during the time you were dealing with Ms Gobbo at the SDU of a lawyer's duty or obligation:*

a of LPP;

52. It was my understanding whilst handling 3838 that legal professional privilege was legal advice communications between a client and their lawyer concerning current or pending court cases. These communications could be verbal or in a document.

53. It was also my understanding that legal professional privilege did not extend to;

- a. Communications regarding current or future serious indictable offences
- b. Preparation, planning or conspiring to commit serious indictable offences
- c. Conduct that amounted to the fabrication or destruction of evidence, perverting the course of justice or being an accessory to a serious indictable offence.
- d. Communications from identities who were not bona-fide clients of the lawyer
- e. Communications made amongst a group of people where there is no intention to keep the client-lawyer conversation confidential.
- f. Communications in a social setting that were not for the purpose of obtaining legal advice.

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54. There was no encouraging the obtaining of legal professional privileged information. If we inadvertently received any material we considered to be LPP as part of general conversation or talk concerning her safety, it was not disseminated. I refer to;
- a. 21803838; ICR111, ICR108, ICR103, ICR102, ICR101, ICR100, ICR98, ICR97, ICR096, ICR091,
 - b. 11792958; ICR038, ICR024, ICR023, ICR022, ICR021, ICR010,
- regarding references in my ICR's to information assessed as LPP and not disseminated.
55. We took our role as the holder of sensitive information seriously in order to protect the safety of the source, the SDU and Victoria Police. Nothing was disseminated to any person without first being risk assessed, sanitised and then approved by the controller. LPP communications were not of interest to us.
56. During 3838's time with SDU, the handlers and controller constantly put in control measures to ensure she was not involved with certain identities so as to avoid a legal conflict of interest. Sometimes the source ignored these control measures primarily for her safety; such was the fear she had of the Mokbel cartel and the grim consequences for insubordination.
- b. confidentiality; and/ or*
57. I understood a lawyer's duty of confidentiality to mean their duty to keep conversations that were legal professional privilege confidential. I also believed this duty of confidentiality did not extend to;
- a. Communications regarding current or future serious indictable offences
 - b. Preparation, planning or conspiring to commit serious indictable offences
 - c. Conduct that amounted to the fabrication or destruction of evidence, perverting the course of justice or being an accessory to a serious indictable offence.
 - d. Communications from identities who were not bona-fide clients of the lawyer
 - e. Communications made amongst a group of people where there is no intention to keep the client-lawyer conversation confidential.
 - f. Communications in a social setting that were not for the purpose of obtaining legal advice.

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58. The reason I believed this, is because if a lawyer were party to conversations in circumstances set out in a – c above, and these conversations occurred in circumstances set out in d – f, then the lawyer would be at risk of being complicit as an aider / abettor, counsel / procurer or accessory to a serious indictable offence beyond the scope of any lawyers duty to client confidentiality.

c. to act in the best interests of his or her client. (lawyers' duties)

59. I understood this to mean that a lawyer should act in the best way they can for their client and to the best of their ability for any current or pending court process the client has engaged them for. I believed these 'lawyer duties' to their client were also confined to acting within the parameters of the law and providing legal advice that acted within the law.
60. A legal practitioner is an officer of the court and I believed a lawyer had a higher ethical and legal duty to the court and the law. Therefore, I believed a lawyers duty to their client did not extend to;
- a. aiding / abetting, counselling / procuring a serious indictable offence
 - b. being an accessory to a serious indictable offence
 - c. perverting the course of justice to benefit their client
 - d. being complicit in the fabrication or destruction of evidence to benefit their client
 - e. acting dishonestly to benefit their client
 - f. knowingly permitting or committing perjury to benefit their client
 - g. receiving, possessing, concealing or laundering the proceeds of crime for the benefit of themselves and/or their client

17. *Provide details of your knowledge or belief as to whether any advice was obtained from hereinafter a legal practitioner or more senior officer in relation to lawyers' duties regarding Ms Gohbo, or more generally, human sources, during your time in the SDU.*

61. I am not aware of any advice being obtained from a legal practitioner or more senior officer outside of SDU in relation to a lawyer's duties regarding 3838. I am not aware that SDU or senior management thought it necessary to seek legal advice. All members involved in the management and oversight of 3838 understood and could see that the SDU were targeting serious criminal offending outside of current or pending judicial cases.

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18. *Provide details of your knowledge or belief as to whether LPP or obligations of confidentiality or a lawyer's duty to act in the best interest of her or his client, were breached by Ms Gobbo, in respect to each of the people listed in question 14.*

62. I do not believe that obligations of confidentiality or LPP were breached by 3838 regarding any of the persons named in question 14.

19. *Provide details of your knowledge or understanding, during the period that you were in the SDU, of the obligation on the part of Victoria Police to disclose to courts, the prosecution and the accused, any and what information obtained during the course of an investigation that was not included in a brief served on an accused.*

63. My understanding is that there is a duty to disclose all evidence the prosecution intends to rely upon in a case including documents and statements capable of being admitted into evidence that the prosecution do not intend to rely upon. This also covers any evidence considered exculpatory or could reasonably assist the defence. This is a continuing obligation by police and the prosecution. This duty of disclosure does not extend to an automatic disclosure in the first instance of;

- a. police methodology,
- b. information that may prejudice an ongoing investigation
- c. human sources or,
- d. the covert collection of intelligence

It becomes a PII legal claim by Victoria Police if such information is exposed or considered necessary to expose in the discovery process or during evidence.

64. I understand that in any PII claim, it is for the court to decide the competing public principles of a fair trial for the accused and the need to protect the confidentiality of police methodology or a human source.

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65. The SDU operated in a covert intelligence environment, we had no involvement in the collection, preparation or presentation of prosecution evidence to the courts. The issue of PII claims relevant to human source operations were managed by the Human Source Management Unit (HSMU) who had ownership of all source management policy and regularly dealt with matters such as public interest immunity in regards to human source management. The Subpoena Management Unit (SMU) would also be a stakeholder in this process in managing PII claims for information considered protected and above.
66. If any SDU member became aware of exculpatory evidence relevant to a prosecution, it would as a matter of course be reported to the HSMU for further assessment and action. In those cases where such disclosure may compromise a human source, Victoria Police had the options of:
- a. informing the defence
 - b. discontinuing the prosecution
 - c. briefing counsel to prosecute a claim of PII
20. *Provide details of your knowledge or understanding, during the period that you were in the SDU, of the operation of the doctrine of public interest immunity (PII), concerning information provided by Ms Gohbo, and whether any advice was obtained or discussions were had in relation to this matter.*
67. The Source Development Unit covered the issue of PII in our Standing Operating Procedures (SOP). This was titled; 'Claiming Privilege'. The section set out a number of fundamental operational principals to ensure the secure and professional management and protection of human sources.
68. With regards to PII concerning information from 3838; as a SDU member I had no input into the preparation of any prosecution briefs which may have had evidence derived from intelligence obtained from 3838. Often intelligence disseminated to investigators within Purana and the Crime Department was corroborated or confirmed through other investigative means or electronic surveillance. This was the evidence used in briefs.

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21. *Provide details of your awareness as to whether any concerns were raised at any time by members of Victoria Police (or other policing or law enforcement agencies for example the AFP, the Office of Public Prosecutions, the Commonwealth Director of Public Prosecutions) as to the use of Ms Gobbo as a human source, including in relation to each of those concerns:*

- a. who raised the concern, with whom it was raised and by what means (written or oral);*
- b. when the concern was raised;*
- c. what the concern was;*
- d. whether the obtaining of legal advice was raised; and*
- e. what, if anything, was done about the concern.*

69. I am not aware of any concerns raised regarding the use of 3838 as a human source by supervising or senior officers of Victoria Police. This includes Executive Command, LIR's, OIC's, the CIR, HSMU or managers of relevant crime units who were aware of 3838's identity and utilising intelligence obtained from her. The only constant concerns were her safety, her health and protection from compromise.

70. There was no other law enforcement agency aware of 3838. I am not aware of the OPP or Commonwealth Director of Public Prosecutions being aware of the use of 3838 as a human source. I was not involved in the prosecution process.

22. *Provide details of your awareness of any Victoria Police Standard Operating Procedure for the management of human sources, including:*

- a. details of what that procedure was;*
- b. whether the conduct of members of Victoria Police in relation to the use of Nicola Gobbo as a human source resulted in any failures to comply with that Standard Operating Procedure;*
- c. whether any breaches of that Standard Operating Procedure as detailed at sub-paragraph (b) placed Ms Gobbo in a position of unacceptable risk to:*
 - i. her personal safety;*
 - ii. the individual rights of others by consequence of her position as a legal practitioner*

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71. I refer to the following Chief Commissioner Instructions and Victoria Police Manual that governed human source management within Victoria Police during the time that SDU managed 3838 as a human source;
 - a. Chief Commissioner Instruction (CCI) 06/04 (22 September 2004)
 - b. CCI 03/05 (issued 20 September 2005)
 - c. VPM 111-3 (2007 - 2010)
 72. In terms of standard operating procedures (SOP's), the SDU had the following unit SOP's relevant to the time that 3838 was registered;
 - a. Dedicated Source Unit SOP's - 2004
 - b. Source Development Unit SOP's 2007 - 2008
 73. Victoria Police are in possession of all these documents and can be produced on request.
 74. I do not believe that the conduct of any police officer related to the use of 3838 as a human source breached any of the above CCI, VPM or SOP's.
 75. I do not believe that there were any policy or procedure breaches that placed 3838 in a position of unacceptable risk to her personal safety or the individual rights of others as a consequence of her position as a legal practitioner.
23. *Provide details of your awareness as to whether any concerns were raised at any time by members of Victoria Police (or other policing or law enforcement agencies for example the APP, the Office of Public Prosecutions, the Commonwealth Director of Public Prosecutions) as to the transition of Ms Gobbo from a human source into a witness, including:*
- a. who raised the concern, with whom it was raised and by what means (written or oral);*
 - b. when the concern was raised;*
 - c. what the concern was;*
 - d. whether the obtaining of legal advice was raised; and*
 - e. what, if anything, was done about the concern.*

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76. The SDU raised serious concerns of 3838 transitioning from a human source to a witness. This is covered in detail in ^{Sandy White-O} and ^{Fox-O} statements who had direct contact with senior management over this issue. These concerns were not accepted by Executive Command and the Petra Steering committee. SDU was directed to hand the source over to Petra as a witness.

77. It is generally considered poor practice by law enforcement agencies world-wide to transition a source into a witness due the almost certain risk of compromise. This is ultimately what occurred in 3838's circumstances.

24. *Provide details of your awareness as to any discussions within the SDU or Victoria Police more generally regarding the use of Nicola Gobbo as a witness for the criminal prosecution of Paul Noel Dale in relation to the murders of Terrence and Christine Hodson, including:*

- a. what that assistance would be;*
- b. whether there were any concerns raised as to the use of Ms Gobbo as a witness in that proceeding;*
- c. who raised that concern; and*
- d. whether anything was done about that concern*

78. There were serious concerns raised by SDU to senior management of Victoria Police regarding 3838's use as a witness for the prosecution of Paul Dale. This is covered in detail by ^{Sandy White-O} and ^{Black-O}

79. A detailed strategic risk analysis was completed by ^{Black-O} in the form of a Strengths Weaknesses Opportunities and Threats (SWOT) analysis. This was submitted to Mr Overland and the Petra steering committee. This again demonstrates the limitations of the VP1091 and its free narrative layout. It was viewed by SDU at this critical junction as not a fit for purpose document to inform senior executive command of the viability of their proposal.

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80. I am also aware that Superintendent Biggin (LIR) was strongly opposed to using 3838 as a witness.
81. Ultimately SDU facilitated handover to Petra Task Force as directed once 3838 became a witness.
25. *Provide details of your awareness as to any discussions within the SDU or Victoria Police more generally regarding the use of Nicola Gobbo as a witness for the criminal prosecution in relation to the murder of Shane Chartres-Abbott, including:*
- a. what that assistance would be;*
 - b. whether there were any concerns raised as to the use of Ms Gobbo as a witness in that proceeding;*
 - c. who raised that concern; and*
 - d. whether anything was done about that concern*
82. I have no recollection of any discussions or considerations regarding 3838 being used as a witness in the Chartres-Abbott murder. I'm not aware of any primary evidence she could have given.
83. Certainly, Task Force Briars was receiving intelligence from SDU regarding this murder, but I do not recall Briars ever indicating that this intelligence amounted to evidence.
84. If this proposal was ever raised, SDU would have conducted a detailed risk assessment in the same way we assessed the risks and viability with Petra Task Force. The risk of compromise and therefore 3838's safety would have been almost certain.
85. If I find any references during full examination of my diaries, ICR's and SDU documents I will update the commission.

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26. *Provide details of the disbanding of the SDU, including your understanding of:*

- a. the reasons for its disbandment;*
- b. the procedures undertaken to disband it*

86. I was not at SDU when the unit was disbanded. I have never been formerly told. I do not believe any SDU has been told the truth. It was a shock and mystery to me when I found out. Especially when in mid-2014, [REDACTED]

[REDACTED]
SDU members. Because they were not permanent positions, Victoria Police were not paying staff a disruption allowance in accordance with our Enterprise Bargaining Agreement. So I guess the first reason was a cost saving measure.

87. There are many details I have since learned from documents I have recently read as part of the document disclosure process. The Commission has these documents in their possession. I make comment on the 'Covert Services Review - 2012' as follows;

a. I think it is no co-incidence that the move to shut the SDU began in the lead up to the tabling of Mr Comrie's highly protected report. Victoria Police moved early to shut down the unit to distance itself from embarrassment and give the false impression that it was an isolated unit issue and not an executive command sanctioned venture regarding use of 3838 as a human source.

b. SDU was moved back to [REDACTED] in an effort to curb 'anti-establishment behaviour'. I believe this merely masks a cost saving measure.

c. Management intervention for insubordination. The proper way for Victoria Police to manage underperformance, high risk behaviour and insubordination is through the Professional Development Assessment (PDA) portal. It is my belief that no negative PDA entries were ever made against any staff member at SDU. To the contrary. For Victoria Police to say that they chose not to use PDA because it would have further impeded change management is contrary to all Victoria Police management policies in dealing with workplace conflict

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and perceived insubordination. Again, I see this as an unsupported justification to merely mask cost management and reputation protection reasons by Victoria Police.

- d. The report states that "A centralised SDU model is too high risk and the unit cannot be rebuilt to perform a similar function. The risk needs to be dissolved and spread" (into the regions) they argue. If this was a genuine concern for the Organisation,

[REDACTED]

- e. Maximum Time in Position (MTIP) was never reviewed. The original position description (NPD1748 dated 22/12/2005) had a 3 year MTIP clause. It was always my belief and others at SDU that at the end of 3 years members could exercise a MTIP transfer. In 2009, I submitted a report to Senior Management requesting to clarify MTIP and regulation 21 transfers for all positions at SDU. To my knowledge this was never actioned or reviewed. This was not a priority of management between 2005-2010 yet in 2012 it became a catalyst issue to justify shutting down the office.

88. The Covert Services 2012 review referred to some of Mr Comrie's 27 recommendations that highlighted poor work practices at the SDU. The SDU team have significant issues with recommendations made by Mr Comrie in his 2012 report. These issues are discussed in detail in ^{Black-O} statement.

89. The suggestion that SDU deliberately sort LPP material and strategically targeted existing court cases are completely untrue.

90. Cost cutting and organisational reputation management at the expense of SDU staff are the main reasons for disbanding SDU in my opinion.

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27. *Provide details of any other human source who, to your knowledge, has provided information or assistance to Victoria Police who were subject to legal obligations of confidentiality or privilege, including:*

- a. the name of the human source;*
- b. if registered, the number of the human source;*
- c. the nature of the legal obligations of confidentiality or privilege;*
- d. the nature of the information or assistance provided by the human source*

91. I am aware that [REDACTED] was a practising solicitor. This source was assessed by PII [REDACTED] and Green-O [REDACTED]. Ultimately the source was assessed as unsuitable and registration was not progressed.

92. Registered Human Source [REDACTED] I am listed as a co-handler for this source in October 2009. I was part of the recruitment phase for this source and did not handle the source after registration. This source had access to and could provide intelligence on high level drug trafficking targets within their social circle. I have no recollection that the source was connected to any role that was subject to legal privilege or confidentiality. The source is listed as unemployed on the source file but previously employed as a law clerk.

93. Registered Human source [REDACTED] I am listed as a co-handler for this source. The source was a PII [REDACTED] barrister / solicitor. I recall the source providing information regarding current drug trafficking not in any way subject to legal privilege. This source may have been subject to LPP in respect of historical matters they dealt with when acting as a practicing solicitor. I do not recall any conversations I had with this source that I assessed as LPP.

94. If I find any references during full examination of my diaries, ICR's and SDU documents I will update the commission.

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28. *Detail any training, including any retraining, you have received in relation to:*
- a. your obligation of disclosure to accused persons, prosecution agencies and the courts;*
 - b. the right of an accused person to silence;*
 - c. the right of an accused person to a legal practitioner;*
 - d. LPP;*
 - e. public interest immunity; and*
 - f. professional and ethical decision making*

95. I have had training in all these topics through my career in Victoria Police. This includes training at;

- a. Victoria Police Academy
- b. Detective Training School
- c. Advanced Investigation Management Course
- d. ^{Pil} [REDACTED] Course
- e. [REDACTED] Human Source Management Program
- f. ^{Pil} [REDACTED] course
- g. Discipline Investigation Course.

96. These principles and obligations have been re-enforced and practiced by me over my ^{Pil} [REDACTED] career with Victoria Police, primarily as a crime investigator.

97. I am aware of the Victoria Police code of conduct for professional and ethical standards including the Code of Ethics and Organisational Values.

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29. Are there other matters relevant to the Commission's terms of reference about which you are able to provide assistance to the Commission?

98. In 2014, I was crossed examined by IBAC regarding contact [REDACTED] that was recorded on ICR092 for 24 July, 2007. I was accused of passing on LPP to Detective Inspector Jim O'Brien at Purana. At the time of the hearing I did not have access to my original diary or ICR to gain context around this contact or what I had disseminated. I maintained that I would have only released sanitised information.

99. I have since had the opportunity to review my official police diary concerning this contact. The first time I had access to this was in April 2019. My diary confirms that I only passed on specific information to Jim O'Brien from contact [REDACTED] concerning the [REDACTED] I refer to ^{Fox-O} ED1 24-Jul-07 to 04-Aug-07 Pg. 18-19 & 38.

100. This statement is prepared from the limited access I have had to all the data and time limitations in going through it. I can prepare a further statement to assist the commission one I have reviewed all the relevant documentation.

101. Any documents I have referred to in this statement are the property of Victoria Police. Requests for access to these documents should be made to Victoria Police.

Fox-O

Pil

(31-May-2019)