

**Royal Commission
into the Management of Police Informants**

SUPPLEMENTARY STATEMENT OF KENNETH DOUGLAS LAY AO APM

1. My full name is Kenneth Douglas Lay AO APM.
2. I have provided a statement dated 15 December 2019 to the Royal Commission.
3. I provide this supplementary statement to add and correct some minor matters in my first statement and to expand on other matters.

Additions and corrections to first statement

4. I make the following additions and corrections to my first statement:
 - (a) Paragraph 15 - my diary entry for 2 November 2011 is at VPL.0005.0237.0012.
 - (b) Paragraph 17 – the cover sheet to the folder is at VPL.0098.0018.0001.
 - (c) Paragraph 18 – the second document referred to in footnote 6 (VPL.0002.0002.0059) is the correct document. The first reference in that footnote (VPL.0002.0002.0035) is incorrect.
 - (d) Paragraph 18 – the reference in footnote 8 should be VPL.0002.0002.0056.
 - (e) Paragraph 21 – my meeting with AC Ashton and Fin McRae occurred on 7, not 6, June 2012.
 - (f) Paragraph 30 – my diary entry for 13 August 2012 is at VPL.0005.0237.0023 and the diary entry for 17 September 2012 (which is from Doug Fryer's diary) is at VPL.0005.0161.0121.
 - (g) Paragraph 35 – the reference in footnote 37 should be VPL.6022.0041.0204.
 - (h) Paragraph 36 – the reference to "Sources" should be "Services".

Governance

5. Since finishing as the Chief Commissioner of Victoria Police at the start of 2015, my career has predominantly been as a Board Director in both the private and public sector. In addition to the Board roles I currently hold, and which are identified in paragraph 9 of my first statement, I have also been a Director of the Alannah and Madeline Foundation, the Greyhound Racing Victoria Board, the Dixon Hospitality Board, and the Essendon Football Club Board. Most recently, I was appointed the Chair of Bushfire Recovery Victoria which was established by the State Government to lead the recovery and rebuilding process in response to the ongoing bushfires in our State.

6. The time that I have spent as both a Chair and Director, has often caused me to reflect on my governance practices at Victoria Police and how I managed and led the organisation.
7. Directors responsibilities include the governance, culture, management and strategic direction of organisations. Boards are governed by very clear legislative and policy requirements. Many of the Boards that I have been on have had conventional and mature governance frameworks and policies. Some of the Boards, two of which I chair, the governance has needed to be totally overhauled as the result of the preceding Boards being dismissed or resigning en masse. In my experience, high performing Boards, and their Committees, have robust recording, reporting and accountability processes that ensure all decisions are acquitted in a timely manner. For example, if a Board, a Regulator, or a Court needed to understand a decision made 5 years earlier, the Board would have access to minutes of meetings which would record the discussion of the decision makers, include all of the papers relied on to make the decision, the accountability processes to ensure delivery, and an action register to record the progress to delivery.
8. During my time as Chief Commissioner, Victoria Police's governance structure was different to the many governance models that I have since witnessed in operation. This experience has given me a different perspective at many levels. A key learning has been that good structure, does not always equate to good governance. In my senior executive role at Victoria Police, I was involved in, and led, many structural changes. The Chief Commissioners that I worked closely with, created an organisational structure which they considered necessary and effective at the time and always based on their experience, knowledge and challenges.
9. During my time as Chief Commissioner, I had a small Executive Command comprising six people, including three Deputy Commissioners and two Executive Directors. The three Deputy Commissioners and I all worked from offices located together and so there was frequent communication amongst the Executive Command about the many significant issues that the organisation would be dealing with at any one time.
10. Chief Commissioner Simon Overland, who preceded me, had a slightly larger Executive Command than me and one that was, in my view, more formal.
11. Chief Commissioner Christine Nixon, who preceded CCP Overland, had a much larger Executive Command. I was her Chief of Staff from October 2003 to January 2005. CCP Nixon's Executive Command comprised about 25 people, including the Deputy and Assistant Commissioners and Commanders. During this period, most of those people were located in a different part of the precinct. CCP Nixon created her structure the way she did because she had different challenges when joining the organisation - she was a lateral appointment, she had more of a management than operational background and she was female. It was a different appointment to what many senior members were used to and comfortable with. In my experience, the larger Executive Command and different locations from which people worked

necessarily meant that there was less regular informal communication about the issues of the day.

12. Shortly before I became the Acting Chief Commissioner, Mr Jack Rush QC was appointed to examine the structure, operations and administration of Senior Command at Victoria Police. His appointment followed the disunity in senior command, including between CCP Overland and DC Ken Jones. Mr Rush QC published a lengthy report which contained 25 recommendations, including in relation to the structure of Senior Command. The report is publicly available at www.parliament.vic.gov.au. The history of the diverse structures established under different Chief Commissioners, which I refer to above, are described in more detail on page 11 of the report. The terms of reference for this inquiry did not require that the governance model that would best suit the organisation be reviewed.
13. The history of diverse structures that are not accompanied by contemporary governance practise may be one reason why Victoria Police has not had entrenched and more sophisticated governance processes throughout the organisation where committees are routinely formed and used to deal with complex and high risk matters, members of those committees prepare papers to be considered by the committee and deliberations and decisions are documented in a comprehensive way. It is important that significant and complex decisions are able to be tracked and that, when necessary, they are supported by advice from other areas such as legal and finance. This was not my experience at Victoria Police, particularly in the operational policing areas. The lack of such important processes at Victoria Police is something that I observed after I left the organisation and after I took on Board appointments elsewhere. The recent APRA review report of the Commonwealth Bank analyses failure to have robust governance, risk and culture processes which may be of assistance to the Royal Commission in considering the issues before it.
14. I can expand further on these matters if it would be of assistance to the Royal Commission.

Dated: 9 February 2020



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Kenneth Douglas Lay