

Royal Commission into the Management of Police Informants

Supplementary Submission on Behalf of Victoria Police and Relevant Individuals in Relation to the Thomas Case Study

1 The Thomas Case Study

- 1.1 Following the filing of the Tranche 1 and 2 submissions, it came to the attention of those who had prepared the submissions that Mr McGrath (pseudonym) had provided a statement to the Royal Commission in response to questions asked of him.
- 1.2 This short supplementary submission addresses Mr McGrath's statement.
- 1.3 Mr McGrath is a central figure in the Thomas case study in Counsel Assisting's submissions. His statement is not referred to by Counsel Assisting in that case study.¹ We assume, therefore, that Counsel Assisting do not rely upon the statement as evidence relevant to the case study. We assume that they have disregarded the statement because it is undated, unsigned and unsworn and because Mr McGrath was not called for cross-examination in circumstances where his credit is a significant issue.
- 1.4 In our submission, Counsel Assisting are right to disregard the statement in relation to the Thomas case study.
- 1.5 The two central propositions advanced in the submissions made by Victoria Police and relevant individuals (**primary submissions**) to which Mr McGrath's statement is relevant are that:
- (a) Mr McGrath may have known that Ms Gobbo was acting for Mr Thomas and may have agreed to her doing so and to her providing information to Mr Thomas;² and
 - (b) the Commission cannot be satisfied that it was Ms Gobbo's advice that persuaded Mr McGrath to cooperate with police and implicate his associates.
- 1.6 As to the first proposition, Mr McGrath claims in his statement that he did not know that Ms Gobbo was acting for Mr Thomas.³ His statement deals with that issue in a single sentence. The single sentence is untested in circumstances where credit is an issue and where there is evidence before the Commission that Mr McGrath was part of a criminal crew with Mr Thomas and Ms Gobbo.
- 1.7 Accordingly, Counsel Assisting were right not to rely upon his statement as evidence that he did not know that Ms Gobbo was acting for Mr Thomas. The proposition put in the primary submissions remains the only one that is open on the evidence—namely, that Mr McGrath may have known that Ms Gobbo was acting for Mr Thomas.
- 1.8 As to the second proposition above, Mr McGrath claims in his statement that Ms Gobbo advised him to co-operate with police and he suggests that he accepted and acted on that advice.⁴
- 1.9 Those claims are self-serving. They have not been tested in cross-examination in circumstances where credit is in issue and where his statement fails to address key matters and is inconsistent with his prior statements, as follows:
- (a) First, his statement fails to address the evidence that he had started co-operating with police before Ms Gobbo was acting for him, including on the day of his arrest for the murder of Michael Marshall. In his statement, he claims⁵ that after his arrest for the Marshall murder he did not provide police with "*much information*".

¹ Mr McGrath's statement is referred to only in Chapter 5 of Counsel Assisting's submissions in relation to how he first met Ms Gobbo and concerning her apparent intimate relationships: at [389].

² Victoria Police Tranche 1 Submissions, Submission of Commander Bateson [13.14(e)], [17.93], [18.3], and [20.11].

³ Statement of Mr McGrath, undated at [32]-[33] (COM.0103.0001.0001 at _0006).

⁴ Statement of Mr McGrath, undated at [16]-[17], [37]-[39] and [50]-[51] (COM.0103.0001.0001 at _0009).

⁵ Statement of Mr McGrath, undated at [13] (COM.0103.0001.0001 at _0006).

In fact, he provided Victoria Police with a critical piece of information – namely, that Carl Williams had ordered the execution.

- (b) Second, his statement fails to address the fact that he had been caught red-handed in relation to the murder of Mr Marshall.
- 1.10 Third, he has not addressed the evidence that in February 2004, he told Victoria Police that Ms Gobbo had advised him that it was up to him whether or not he provided information about Carl Williams and that he should “*look after himself*”. That evidence is inconsistent with his statement to the Commission.
- 1.11 Fourth, he has not addressed whether his solicitors gave him advice in relation to his charges and, if so, the content of that advice, especially in circumstances where his solicitor, Karen Ingleton, was present when he told DS Bateson that he had decided to co-operate with police.
- 1.12 Fifth, he has not explained the evidence that he gave in his criminal proceedings about why he decided to co-operate with police which is directly inconsistent with his statement to the Commission.
- 1.13 Sixth, he has not addressed whether the barrister who started acting for him in about August 2004 gave him any advice about his proposed course of pleading guilty and becoming a Crown witness.
- 1.14 Seventh, he has not addressed the relevance that his extensive criminal record and the prospect of being sentenced to life imprisonment had on his decision to co-operate with police.
- 1.15 Lastly, he has not addressed the relevance that the significant reduction in sentence (10 years imprisonment for four murders) had on his decision to co-operate with police.
- 1.16 For all of the reasons set out above, Counsel Assisting were right not to rely upon Mr McGrath’s statement as evidence that Ms Gobbo advised him to co-operate with police or that he accepted and acted on that advice.
- 1.17 Accordingly, it remains the case that the evidence before the Commission does not support a finding that it was Ms Gobbo’s advice that persuaded Mr McGrath to cooperate with police and implicate his associates. As set out in the primary submissions, such a finding is contradicted by a large body of evidence.
- 1.18 For completeness, we note that Mr McGrath was not asked any specific questions about the fact that he initially told police that he thought that the Marshall job was a debt collection but then later told police that he knew it was to be a murder. Accordingly, Mr McGrath’s statement does not address that issue or the extent of Ms Gobbo’s involvement in it.

Dated: 31 August 2020

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