

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

Submission from Brendan MOSS

1. I, Brendan Moss from Victoria, say as follows:
2. I make this submission in relation to the terms of reference of the Royal Commission into the Management of Police Informants (the Royal Commission), as a concerned member of the public;
3. I hold concern that the use of human sources by the Police will be diminished by the Royal Commission. Police require the use of human sources to gain valuable information and evidence to support charges, and I feel the negative media gained by the incidents involving Informant 3838 (3838) is likely to prevent people from considering becoming registered human sources in the future;
4. The matter involving 3838 has gained a large amount of media attention, which appears to be mostly negative against Police actions. 3838 was acting as a Defence Solicitor and providing information at the time relating to her clients to Police, who would then use that information against the accused. It is reported that the use of this information by Police was inappropriate, given how it has been obtained. I feel an investigation is warranted to confirm that 3838 was acting without coercion in providing the information, and was not promised anything to provide that information;
5. It is my understanding that the Police are required to present all the evidence they have obtained to Court, even when it goes to show the accused innocence. As 3838 was presenting information regarding her clients, the Police were required to present it to Court and have the Court decide on its admissibility. At the time of the incidents, the information given by 3838 was accepted on numerous occasions by Victorian Courts and gained the Prosecution multiple convictions, in some cases, according to media outlets, for serious offences including large drug trafficking and murder charges;
6. I feel that the matters that 3838 informed on were of major public interest, and therefore feel the evidential value of the information provided far outweighs the prejudicial value of the manner the information was collected;
7. 3838 and her clients were under the provisions of legal privilege at the time she was informing. I acknowledge that this blurs the line between Defence Solicitors and

their clients. I feel that the reasonable persons test would suggest the information provided by 3838 to be fair and reasonable as it was enough to convict offenders on serious charges, and the majority of the community errs in favour of victims rights over rights of the offender;

8. This should not impinge on the rights the accused has to a fair trial, however I feel changes to legal privilege should be made to allow Solicitors and members of the Clergy to report serious offending to Police without fear of legal retribution, similar to mandatory reporting that Doctors, Teachers and Police etc have for the suspicion of family violence;
9. In relation to the offenders that 3838 provided information on, I feel that society would lose further faith in the justice system should those offenders were re-trialled, and the information provided by 3838 was excluded. The information goes to prove an offence, as the offences are serious, the community would expect that information be included;
10. I feel that the community has certain expectations on Police to solve criminal activity and put alleged offenders before the Courts. I feel that further restrictions on human source recruitment will place strain on the Police to put offenders before the Court, and place bias against the prosecution in Court proving offences. It should be considered that if the accused deserves a fair trial, the Victims should also expect the same fairness, and information provided by human sources, especially from Solicitors, would provide the Victim similar fairness;
11. I feel that society would be happy to accept the notion that Defence Solicitors have the power to inform Police of serious offending by a client. I feel that the only people who would stand to lose anything by that would be the people who are already guilty beyond reasonable doubt. I feel that 3838 may have felt she was showing a higher set of morals by presenting Police with information in her cases, instead of having knowledge of her clients guilt and still attempting to gain a not guilty verdict.

Brendan Moss

Friday 8 March 2019