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Your Ref
Our Ref 103934-2



Lawyers & Consultants

27 August 2019

Private and Confidential

Royal Commission into the Management of Police Informants
C/O Howard Rapke
Holding Redlich
Solicitors Assisting the Royal Commission into the Management of Police Informants
PO Box 18028
Melbourne VIC 3001

By Email: [redacted]

RE: Royal Commission into the Management of Police Informants - Request for Statement

Dear Sir / Madam,

We refer to your letter to Mr Ashby dated 16 August 2019.

We **enclose** on behalf of Mr Ashby, Noel Ashby's Statement dated 27 August 2019 addressing the matters set out in points 1 to 9 of your letter dated 16 August 2019.

Yours faithfully
Stephens Lawyers & Consultants

Katarina Klaric

Katarina Klaric
Principal
[redacted]

Encl.

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Royal Commission

into the Management of Police Informants

STATEMENT OF NOEL ASHBY

1. My full name is Noel Ashby.
2. I make this statement in response to a request from the Royal Commission into the Management of Police Informants. The statement is produced to the Royal Commission in response to a Notice to Produce.

Educational Background and Employment History

3. I have been awarded the following educational qualifications: -
 - Bachelor of Arts (Police Studies) – Monash University 1994
 - Associate Diploma in Arts (Police Studies) – Caulfield Institute 1990
4. A brief chronology of my service with Victoria Police is: -
 - 1973 – 1974 - Police Cadet
 - 1974 – 1975 - Training at The Police Academy
 - 1975 – 1976 - Constable, General Duties, St. Kilda Road Police Station
 - 1976 – 1979 - Constable, General Duties, Dandenong Police Station
 - 1979 – 1980 - Detective Constable, CIB Divisions Melbourne & Oakleigh
 - 1980 – 1985 - Detective Senior Constable, Homicide Squad
 - 1985 – 1987 - Sergeant, General Duties, St. Kilda Police Station
 - 1987 – 1988 - Detective Sergeant, Homicide Squad
 - 1988 – 1991 - Senior Sergeant, Major Collision Investigation Group
 - 1991 – 1993 - Inspector, Internal Investigation Department
 - 1993 – 1995 - Inspector, In-Charge, Major Collision Investigation Group
 - 1995 – 1996 - Chief Inspector, Staff Officer, Assist Commissioner, Operations
 - 1996 – 1998 - Detective Superintendent, Serious Crime Division, Crime Dep't
 - 1998 – 2002 - Assistant Commissioner (Training & Education)
 - 2002 – 2004 - Assistant Commissioner (Region 5, Operations Department)
 - 2004 – 2007 - Ag. Deputy Commissioner & Assistant Commissioner Traffic
5. Honours & Awards: -
 - I was awarded the Australian Police Medal (APM) in June 1999 for conspicuous service to policing.

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- I also have been awarded the National Medal (with Clasps) for service and the Victoria Police Service Medal & Award (with Clasps) for ethical and diligent service to Victoria Police.
 - I was officially commended by Victoria Police on five occasions for my performance in policing operations. Three of the commendations included leadership of policing operations involved in criminal investigation.
6. I had never been the subject of an integrity investigation until the commencement of Operation Diana in 2007 by the Office of Police Integrity (OPI), that was supported operationally and technically by Victoria Police.

Details of my involvement or association, including the period of such involvement or association, with any investigation which had dealings in any way with Ms. Gobbo.

7. Operation Briars was commenced formally in April 2007. Operation Briars involved the joint OPI and Victoria Police investigation concerning the murder of Shane Chartres-Abbott on 4 June 2003 in Reservoir. Operation Briars evolved from Operation Clonk, that originally probed the murder of Chartres-Abbott and was a Victoria Police investigation by the Homicide Squad.
8. Operation Diana was commenced formally on 30 May 2007 by the OPI and was wholly supported by Victoria Police. Pre-inquiries for Operation Diana were commenced by the OPI in March and April 2007, prior to a Notice of Motion formally establishing the investigation on 30 May 2007 by the then Director of Police Integrity, Mr. George Brouwer. Mr. Brouwer was also the State Ombudsman at that time. Operation Diana was commenced to investigate the allegedly unhealthy relationship between myself, and Mr. Paul Mullett, then Secretary of The Police Association.
9. Operation Briars and Operation Diana were linked with one another, with Operation Briars being managed by a Board of Management consisting of former Deputy Commissioner Simon Overland of Victoria Police as Chair, (later Chief Commissioner of Police), Deputy Director of the OPI, Mr. Graham Ashton (current Chief Commissioner of Victoria Police) and Assistant Commissioner Luke Cornelius of Victoria Police as members. Each of these people were also integral to Operation Diana and provided investigation and evidentiary support to the investigation. Others associated with these investigations were linked through a Reference Group for Operation Briars that variously involved members of the Australian Crime Commission (ACC), other Victoria Police staff of executive levels and a retired former Royal Commissioner.

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Use of Ms Gobbo as a human source

Provide details of how you learned, or were given reason to believe, that Ms. Gobbo was providing information or assistance to Victoria Police in relation to the following operations and investigations:

- a. Operation Briars;***
- b. Operation Diana; and***
- c. Any OPI investigations related to these operations***

10. Operation Briars. I believe that Ms. Gobbo was involved or was instrumental in providing material that was leaked to the media identifying me and others, including Mr. Mullett, as being implicated in the allegations we compromised Operation Briars by allegedly leaking certain information relative to the operation. I am concerned as to the association between Ms. Gobbo and solicitor, Mr. Tony Hargreaves, who represented me during post-committal judicial proceedings.
11. My concern extends to both Ms. Gobbo's knowledge and involvement in Operation Briars and Operation Diana, and the involvement with former police members Peter Lalor and David Waters, whom were targets of Operation Briars.
12. I have learned from Paul Mullett that Peter Lalor, who was represented by Mr. Hargreaves at OPI hearings in September 2007, that Mr. Hargreaves phoned Ms. Gobbo in the presence of Mr. Lalor and discussed [REDACTED]. Mr. Lalor had been questioned under cross-examination by counsel assisting the OPI hearings, as to his relationship with Mr Gregory [REDACTED]. Sometime after this and in Mr. Hargreaves offices, Mr. Hargreaves made the telephone call to Ms. Gobbo. Mr. Hargreaves asserted he knew "someone" who would know about Mr Gregory [REDACTED]. He then called Ms. Gobbo and spoke to her on loudspeaker in the presence of Mr. Lalor. Ms. Gobbo described [REDACTED] as "pathological liar" and other like descriptions of his character.
13. Furthermore, I learned of Ms. Gobbo's involvement with Operation Briars as a human source following the announcement of the Royal Commission into the Management of Police Informants. Because of the announcement of the Royal Commission, I learned that Ms. Gobbo had been referred to by convicted murderer, Mr Gregory [REDACTED] (also known as [REDACTED]), at the murder trial of R v. Goussis (& others), for the murder of Shane Chartres-Abbott. On day PII of the murder trial in the Melbourne Supreme Court on PII May 2014, [REDACTED] attested in cross-examination, that he had received information from Ms. Gobbo while in prison of her telling him "things" in relation to Operation Briars and Operation Diana. (See transcript of trial hearing at pages [REDACTED]).
14. Under cross examination, [REDACTED] also referred to the names Ashby, Linnell (former Media Director for Victoria Police) and Mullett (the Secretary of The Police

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Association), as reasons for his statement not being taken by Victoria Police and OPI investigators for four years following his revelations concerning the murder of Chartres-Abbott. Mr. ^{Gregory} also referred cross examining counsel to “her”, being Ms. Gobbo, if he wanted further information as to the reasons for the failure of a contemporaneous statement being taken from him by investigators from Victoria Police and the OPI. (see transcript of hearing at pages PII)

15. Mr. Mullett, Mr. Linnell and I were targets for Operation Diana and were accused by the OPI and Victoria Police of impeding the investigation of Operation Briars in a highly public aspect involving public hearings of Operation Diana.
16. Upon the release of Ms. Gobbo’s unsworn statement, Ms. Gobbo refers to a conversation with former Victoria Police member, Mr. David Waters, in her chambers on 10 November 2007. Ms. Gobbo states Waters mentioned there were more summonses on the way regarding OPI hearings. Ms. Gobbo stated, “At this point the reference to the OPI hearings related to the alleged leaks coming from Force Command in respect to the Briars investigation.” Ms. Gobbo’s statement has been tendered to the Royal Commission previously.
17. Operation Diana. Please see previous answer paragraphs 10 – 16 inclusive.
18. Any OPI investigations related to these operations. Please refer to my previous answer, paragraphs 10 – 16 inclusive. Furthermore, Operation Briars was a joint OPI and Victoria Police investigation, whereby a Board of Management directed the investigatory operations and, as aforementioned, consisted of Mr. Overland (as Chair) and members Mr. Ashton (from the OPI) and Mr. Cornelius from Victoria Police.
19. Each member of the Board of Management for Operation Briars was fundamental to supporting the operations and the investigation processes of Operation Diana and each provided evidentiary and other direct operational support to Operation Diana.

Provide details of how I considered that information or assistance provided by Ms. Gobbo to Victoria Police has personally affected or impacted upon me.

20. There are a several issues that have directly impacted upon me concerning the conduct of Operation Briars and Operation Diana. A critical issue has been the lack of disclosure of information and evidence that would have benefited my defence to allegations made against me and for the criminal charges preferred against me. Particularly, I am concerned about the involvement of Ms. Gobbo’s in Operation Briars and in Operation Diana, as previously outlined in paragraphs 10 – 16 of this statement. However, because of the limited publicly disclosed information, I don’t know of the full extent of Ms. Gobbo’s involvement in these operations and their targets.
21. The OPI and Victoria Police acted jointly to release selective material and evidence, particularly telephone intercept material, while excluding other intercept material that provided exculpatory evidence. In doing so, particularly at the public hearings

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conducted by the OPI in Operation Diana, where I and others were publicly examined, tranches of conversations were released that were selective and relied upon to extract answers to questions at the OPI hearings that resulted in the worst possible assessment of my actions and character and became the basis for criminal charges. The non-disclosure of evidence was deliberately relied upon in this selective manner to deliver the outcome the OPI and Victoria Police were seeking to achieve. This evidence particularly related to Operation Briars, which became the principal focus of the public OPI hearings for Operation Diana.

22. A salient example of this was the failure of the OPI and Victoria Police to release and disclose or even to acknowledge or disclose the existence of the unsigned statement of Ms. Gobbo (as aforementioned), that has been recently released by the Royal Commission, at various legal proceedings against me and others.
23. A further example of the general practice of the OPI and Victoria Police to not-disclose relevant information was the memorandum of information received from journalist Mr. Nick McKenzie, and prepared by Detective Senior Sergeant Iddles, who was the Chief Investigator for Operation Briars. The memorandum (or briefing note), was prepared by Senior Sergeant Iddles and logged various conversations with Mr. McKenzie. The memorandum logged a range of conversations between 14 April 2007 and 19 February 2008, (Memorandum of Iddles provided to Royal Commission).
24. Mr. McKenzie was the journalist who reported on the existence of Operation Briars in great detail in The Age newspaper on 14 September 2007. This memorandum contained highly relevant information concerning me, and others, relating to Operation Briars and Operation Diana, that was both exculpatory of me and nominated other people who may have leaked information concerning Briars and other evidence that would have aided my defence to criminal charges and protected my reputation, (as aforementioned, Memorandum of Iddles provided to Royal Commission).
25. The failure not to immediately disclose this memorandum not only harmed the legal defences of me and others, but seriously questioned the true objectives of Operation Diana and also questioned its linkages with Operation Briars, as it presupposes the successful and desired outcome for people alleged to have committed serious criminal offences pertaining to the alleged disruption of the murder investigation concerning Shane Chartres-Abbott, was mere resignation and not criminal prosecution. This memorandum raises serious probity issues concerning the true motives of Operation Diana.
26. A further example of general non-disclosure of relevant information and selective interpretation of evidence of the OPI and Victoria Police, was the matter concerning an alleged leak of information whereby Mr. Overland was to attend a high-level executive management course in the Paris suburb of Fontaine-Bleu, France. The OPI and Victoria not only breached the "permitted purpose" disclosure of telephone

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- intercept material for their own purposes and wholly to the benefit of Mr. Overland, but failed to disclose that the actual source of this leak was indeed Mr. Overland himself. The OPI and Victoria Police were content allow public blame for this information being released to be placed upon others, including me, and wholly absolving Overland of any responsibility.
27. This, and other selective authoring of the official OPI public report into Operation Diana, that deeply involved and also reported extensively on Operation Briars, and entitled "*Exposing corruption within senior levels of Victoria Police*", amounted to contributing to a serious miscarriage of justice to me and others, and was typically selective in its reporting, was inaccurate and personally damaging to my reputation. It is pertinent to note that the report was withdrawn publicly following the collapse of all charges preferred against those targeted in Operation Diana.
 28. During Operation Diana, the OPI and Victoria Police, selectively disclosed information and demonstrated a propensity to pre-determine courses of action that suited their objectives. An example of this practice, relates to an OPI strategy meeting for Operation Diana on 24 July 2007 at the OPI offices. The official IT case log for Operation Diana reveals an OPI strategy meeting for Operation Diana on 24 July 2007, of key OPI personnel including Mr. Ashton. One of the OPI members present, and the most junior OPI member, was Mr. Joshua Bernshaw. Mr. Bernshaw kept extensive contemporaneous notes and was responsible for making formal progress entries into the OPI case log for Operation Diana.
 29. All other OPI investigators present did not mention this strategy meeting in their official OPI investigator diaries. Mr. Ashton conceded in cross-examination at my committal proceedings on several occasions that he kept no notes at all while Deputy Director of the OPI, and no specific notes of this strategy meeting.
 30. On 24 July 2007 the OPI had been investigating Operation Diana formally since 30 May 2007, the date Mr. Brouwer signed the Notice of Motion, and informally since April 2007, as also conceded by Mr. Ashton in cross-examination at my committal proceedings.
 31. The case log lists six key issues of interest for Operation Diana. They can at best be described as a benign list of objectives that seriously question whether any issues of criminality or misconduct of any party regarding Operation Diana had been identified at this point.
 32. Critically, the case log entries for this strategy meeting, and OPI investigator Mr. Bernshaw's notes, conjointly reveal "*Strategy was discussed over potential for private and public hearings and what information was important to convey – prioritising.*"
 33. In the OPI case log, and Mr. Bernshaw's notes, there is no reference in any way to Operation Briars, no mention of compromise to Operation Briars, but nevertheless reveals an intention for the OPI to hold private and then highly damaging and

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prejudicial coercive public hearings as a foremost strategy and outcome for Operation Diana.

34. This revelation seriously questions the actual motive of Operation Diana, and highlights the attempts by the OPI and Victoria Police to link me and others, in the most personally damaging manner, to the alleged compromise of Operation Briars, by alleging we leaked through a long chain of people details to journalist Nick McKenzie the existence of Operation Briars and led to Mr. McKenzie's media reporting of Operation Briars in The Age newspaper on 14 September 2007.
35. In further supporting the questioning of the true purpose and intention of Operation Diana, was my appointment, while Assistant Commissioner (Traffic) by former Chief Commissioner Christine Nixon as the Victoria Police Enterprise Bargaining (EB) 2007 liaison person with the Secretary of the Police Association, Mr. Paul Mullett. This role was additional to my role as being head of Road Policing and Public Transport Safety in Victoria Police. This additional responsibility surprised almost everyone, including me, and my instructions from Ms. Nixon were to ensure a smooth EB process that was without public criticism of Victoria Police. Her appointment of me to this role occurred on 28 May 2007. The Director of Police Integrity, Mr. Brouwer, signed the Notice of Motion to formally commence Operation Diana (targeting my alleged relationship with Mr. Mullett) on 30 May 2007 and it emerged the OPI had been collecting information and technical details, such as telephone records, since March 2007 and April 2007. Furthermore, on 1 June 2007, the OPI commenced telephone intercepts of me that ultimately expanded enormously to a wide range of associates, friends and family, including my school age children under the auspices of Operation Diana. The timeline of these occurrences raises probity questions concerning my EB appointment and my instructions from Ms. Nixon to liaise directly with Mr. Mullett and regarding the real purposes of Operation Diana.
36. The effect of the OPI hearings and the accompanying media reporting, that was facilitated and driven by the OPI and Victoria Police, and the subsequent legal processes, significantly undermined and harmed my personal reputation and public reputation. The public attempts to link me to be a key person in leaking information that compromised Operation Diana was also devastating to my reputation. The information outlined in paragraphs 10 – 16 of this statement, particularly involving Ms. Gobbo and [REDACTED] and their knowledge and potential connivance of Operation Diana, is also further damaging to my reputation.
37. Furthermore, the intrusive use of telephone intercepts was considerable, as was the use of other technology including listening devices, personal covert surveillance, and other technical support that was also publicly released by the OPI and Victoria Police contributed to destroying my reputation and contributing to significant personal embarrassment and deep economic loss.
38. My legal team attempted to obtain the evidence that was relied upon by the OPI and Victoria Police to obtain telephone intercept warrants against me and others. The

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OPI and Victoria Police successfully opposed the disclosure to my defence team of the evidence they relied upon for obtaining telephone intercept warrants against me and others, based on claims of public interest immunity to protect their operating practices and to protect the identity of their informants. I am concerned that this evidence was obtained from informers, who may include Ms. Gobbo, and was based upon false evidence used to gain telephone intercepts against me at the outset of Operation Diana.

In respect of any OPI investigation, or any other matter, was I ever represented by Ms. Gobbo.

39. I was never represented by Ms. Gobbo. I was originally represented by Mr. Paul Galbally, of Galbally & O'Bryan Solicitors for the OPI hearings and through my committal proceedings. Mr. Galbally briefed Mr. Phillip Priest QC and Ms. Ruth Shann, as Counsel.
40. Following my committal proceedings, Mr. Tony Hargreaves of Tony Hargreaves & Partners, became my solicitor. This was because of contractual arrangements with The Police Association, whom partially funded my legal expenses.
41. At my first meeting with Mr. Hargreaves, he advised I would not be funded for a Queens Counsel and that there was other junior counsel at the Bar he could recommend and brief to represent me and whom were more senior and experienced than Ms. Shann at that time.
42. I rejected outright this suggestion and remitted substantial monies personally for Mr. Priest QC to continue as my senior defence counsel. I also insisted on retaining Ms. Shann as junior counsel. I had complete confidence in both Mr. Priest QC and Ms. Shann as my counsel and felt they were always acting wholly, unambiguously and only in my interests. I shared the same confidence of Mr. Paul Galbally and I would have preferred for him to have continued as instructing solicitor.
43. I did not share the same trust, confidence, nor relationship, with Mr. Hargreaves. I felt uneasy as to his suggestion that I agree to change my defence counsel and I was not confident that the true purposes for a change of counsel were purely economic. Consequently, Mr. Priest QC continued as my senior counsel and Ms. Shann continued as junior counsel.

In respect of any OPI investigation, or any other matter, was it ever suggested, or recommended to you, that Nicola Gobbo be engaged to represent me.

44. It was never suggested to me that I be represented by Ms. Gobbo.

Provide details of any other member of Victoria Police, or other organisation, who I believe was aware, prior to the end of 2012 that Ms. Gobbo was providing information or assistance to Victoria Police.

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45. I verily believe that the following various members of the Victoria Police and the OPI, were aware that Ms. Gobbo was providing information or assistance to Victoria Police and were variously complicit in acting in concert with her and receiving information from her: -

- I. Members of the Board of Management for Operation Briars (as aforementioned)
- II. Members of the Operation Briars joint-investigation team from Victoria Police and the OPI
- III. I verily believe her information and potentially identification of her, was well known throughout some other key investigatory bodies of Victoria Police, the Australian Crime Commission and other associated enforcement officials.

Detail all other personal contact I have had with Ms. Gobbo (and etc)

46. I believe Ms. Gobbo came may have come to my committal proceedings on at least one occasion and sat in the body of the court. At that time, I did not know her, but I have since recognised her from media reporting of her identity and someone very similar in appearance sat in the court on at least one occasion. Another solicitor, Ms. Zarah Garde-Wilson also came to my committal proceedings on some occasions.

Other matters relevant to the commission's terms of reference about which I am able to provide assistance to the commission.

47. I am in possession of, and have knowledge, of other evidence that relates to the failure to disclose relevant information and evidence by Victoria Police and the OPI in regard to legal process relevant to Operation Briars and Operation Diana and of the conduct of investigations jointly conducted by Victoria Police and the OPI. This information includes: -

- I. The affidavit of former Deputy Commissioner Kieran Walshe (the Walshe affidavit), that was relied upon by Victoria Police and the OPI to deny access to relevant information that I believe referred to Ms. Gobbo and her relationship with serving and former members of Victoria Police and the OPI.
- II. I verily believe Victoria Police and the OPI used unfounded claims of public interest immunity to protect their operating practices and for the protection of their informants to deny me disclosure of relevant evidence that would have supported my defence to charges preferred against me and to justify the continuation of Operation Diana. I believe one of the informants, or the informer, that Walshe referred to in his affidavit may have been Ms. Gobbo. I believe this based on the fact of information she has revealed in her recently released

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unsworn statement, her relationship with former police members, David Waters and Peter Lalor, whom were both targets of Operation Briars, and also the evidence of crown witness in R Vs. Goussis (2014 as aforementioned), convicted murderer and [REDACTED]

[REDACTED] who referred to my name and others in his evidence at the Goussis trial and referred defence counsel to Ms. Gobbo as having important knowledge concerning Operation Diana, and specifically me and Mr. Mullett and another person targeted in Operation Diana.

- III. I draw the Royal Commission's attention to the memoir of Ms. Christine Nixon, former Chief Commission of Victoria Police, titled Fair Cop, Page 173, wherein she refers to her knowledge of investigation practices introduced under her administration that demonstrates an acceptance of the appropriateness of investigating officials to approach, liaise, seek information from and otherwise interact with lawyers representing defendant's charged with serious crimes, with the objective of solving other crimes.
- IV. I draw the Royal Commission's attention to the complete lack of independence between Victoria Police and its oversighting integrity body, the OPI, whose relationship ultimately became one of organisational partners, sharing investigators, information, intelligence, thereby denigrating entirely the oversight capacity of the OPI in monitoring Victoria Police to improve ethical behaviour. Therefore, the OPI became unable to discharge its responsibilities under the Police Regulation Act, 1958, and
- V. I will now refer to the leadership and structure of Victoria Police under the Nixon administration and its predecessor, the Comrie administration. I was an Assistant Commissioner under both administrations and a member of the senior executive of both. The Comrie administration operated under a logical organisational structure whereby responsibilities and accountabilities were clearly understood throughout the organisation. It was an organisational arrangement typical of the command and control arrangements for other community policing organisations in the western world, and particularly the United Kingdom. These logical management and administration arrangements were clearly defined and were categorised by specialised groups targeting law enforcement challenges. The Comrie administrations failings were in the industrial environment, whereby unnecessary disputation occurred with The Police Association. As Chief Commissioner, Ms. Christine Nixon dismantled these logical organisational management arrangements. Ms. Nixon's reforms imposed a convoluted structure that resulted in

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an organisational chart documenting accountability of those involved with the senior executive group, as completely unreadable and impossible to discern. People were added to the senior executive group who did not hold executive rankings in the sworn and unsworn members of Victoria Police. A committee structure was established, that included selected external people, purportedly to advise the senior executive. Deputy Commissioners were removed from line control and up to 27 senior members reported directly to Ms. Nixon. All synergy disappeared, coherence in the flow of information became highly centralised, and at times, was non-existent. Performance standards virtually were lost in a bureaucratic maze that destroyed spirit-de-corps in the senior leadership group and created and allowed fiefdoms to emerge for a chosen few. This chosen few had little crime investigation experience in community policing and those with a history of service in criminal investigation areas, particularly specialised criminal investigation, were banished.

Conclusion

48. The continual practice of non-disclosure by the OPI and Victoria Police of relevant significant information, to which I have referred earlier, and particularly the unsigned statement of Ms. Gobbo and the Human Sources Running Sheet, led directly to a miscarriage of justice that was demonstrated through OPI private and public hearings, committal proceedings and pre-trial preparation.
49. The practices were grossly unfair, deliberate and part of a strategy designed to prevent a fair and reasonable interpretation of the evidence and to create the worst possible impression for me and other OPI and Victoria Police targets of Operation Diana.

Noel Ashby
27 August 2019.