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Royal Commission

into the Management of Police Informants

STATEMENT OF PAUL MULLETT

1. My full name is Paul Mullett.
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 am currently employed on a part time basis as a consultant to the United Fire Fighters Union.

Qualifications and Courses

4. I set out my qualifications and courses that I have completed below.
5. I graduated from the Victoria Police Academy on the 4 February 1974 and became a sworn member of the Victoria Police Force on the 17 June 1974.
6. I remained a member of Victoria Police until 18 March 2008 when I retired because I was forced to do so because:
 - a) Chief Commissioner Nixon suspended me from Victoria Police on the 15 November 2007, following my giving evidence at the OPI hearings relating to operations Briars and Diana.
 - b) Continued oppressive bullying allegation investigation;

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- c) Chief Commissioner Nixon continued my suspension until the 29 July 2008, when I was charged;
- d) Upon being charged I was served with a further suspension notice signed by Deputy Commissioner Walshe on the 29 July 2008;

7. Whilst a member of Victoria Police I completed the following courses:

- (a) Diploma of Police Studies (Part thereof);
- (b) Senior Sergeant Command and Control Leadership Course;
- (c) Advanced Detective Training;
- (d) Sergeants Supervision Course;
- (e) Detective Training;
- (f) Certificate iv Workplace Training.

8. Whilst a member of Victoria Police I held the following ranks and attained the rank of Senior Sergeant:

- (a) Senior Sergeant of Police (1990 to 1993);
- (b) Detective Sergeant (1986 to 1990);
- (c) Sergeant (1983 to 1986);
- (d) Detective Senior Constable (1979 to 1983);
- (e) Constable of Police (1974 – 1979).

Awards

9. Whilst a member of Victoria Police, I was the recipient of the following awards and medals:

- (a) 2 Victoria Police Valour Awards – Acquired on 18 August 1978 and 6 December 1984;
(in the history of the Victoria Police, only 2 members have on 2 separate occasions received this distinguished award)

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- (b) Australian Police Medal – Acquired on 26 March 2003;
- (c) Centenary Medal – Acquired on 9 April 2003;
- (d) Victoria Police Long Service & Good Conduct Medal:
 - National Medal 15 years Service – Acquired on 3 March 1990
 - National Medal 25 years First Class Service – Acquired 10 October 2000
- (e) Victoria Police Service Medals – Acquired on 1 September 1997 and 1 September 2000;
- (f) Commendation Awards for exceptional work undertaken as a member of Victoria Police:
 - Commendations Award – Acquired on 26 July 1976
 - Commendations Award – Acquired on 11 November 1977
 - Commendations Award – Acquired on 30 November 1977
 - Commendations Award – Acquired on 8 May 1978
 - Commendations Award – Acquired on 17 August 1978
 - District Level Commendation Award – Acquired 30 September 1985
 - District Level Commendation Award – Acquired 18 October 1985
 - District Level Commendation Award – Acquired 11 November 1986.

Employment History

Victoria Police

10. During the that I was a member of Victoria Police between 4 February 1974 to 18 March 2009 (35 years 1 month), I was:

- (a) an employee of Victoria Police undertaking police duties from February 1974 to June 1992.

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(b) the General Secretary of Police Association of Tasmania from June 1992 to June 1993.

I was on leave without pay from Victoria Police Force for this period.

(c) Assistant Secretary of The Police Association – Victoria from June 1993 to November 1998, on secondment from Victoria Police. The Police Association is an organisation or union that represents the industrial, legal, professional and general welfare interests of its members, who are members of Victoria Police.

(d) The Secretary of The Police Association – Victoria from November 1998 to 18 March 2009. These were paid positions for which I have contracts. During this period I also held the positions of Secretary of The Police Association, VPA Friendly Society and The Chief Executive Officer of the Victoria Police Branch of the Police Federation of Australia.

11. Since 5 November 2009, I have been employed on a part time basis as a Consultant (Industrial officer/advisor) by the United Firefighters Union, except for the period from 2 May 2012 to 26 February 2013. My accident occurred on 2 May 2012 however I didn't receive TAC payments until 11 May 2012 when I was unable to work due injuries sustained when I was hit by a motor vehicle and I received payments from the Transport Accident Authority (TAC). In this role have been involved in negotiating with MFB management & government to develop enterprise bargaining agreements, to enable the improvement of fire fighters' and corporate staff conditions of employment.

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.

12. 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.

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13. 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 former Assistant Commissioner Noel Ashby, of Victoria Police, and myself, as the Secretary of The Police Association.

14. Operation Briars and Operation Diana were integrally 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.

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***

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15. Operation Briars. I believe that Ms. Gobbo was instrumental in providing material that was leaked to the media identifying me and Mr. Ashby and others as being implicated in the allegations we compromised Operation Briars by allegedly leaking certain information relative to the operation. In particular, I am concerned as to the association between Ms. Gobbo and solicitor, Mr. Tony Hargreaves, who represented me before OPI private and public hearings and at my committal proceedings.
16. In particular, 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.
17. I have learned from 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 ^{Mr Gregory} Mr. Lalor had been questioned under cross-examination by counsel assisting the OPI hearings, as to his relationship with ^{Mr Gregory} ~~Mr Gregory~~ ^{Mr Gregory} Sometime after the OPI hearings, Mr. Hargreaves made the telephone call to Ms. Gobbo. Mr. Hargreaves asserted he knew "someone" who would know about ^{Mr Gregory} ~~Mr Gregory~~ ^{Mr Gregory} He then called Ms. Gobbo and spoke to her on loudspeaker in the presence of Mr. Lalor. Ms. Gobbo described ^{Mr Gregory} ~~Mr Gregory~~ ^{Mr Gregory} as "pathological liar" and other like descriptions of his character.
18. 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} ~~Mr Gregory~~ ^{Mr Gregory} (also known as ^{Mr Gregory} ~~Mr Gregory~~ ^{Mr Gregory}, at the murder trial of R v. Goussis (& others), for the murder of Shane Chartres-Abbott. On day ~~Mr Gregory~~ ^{Mr Gregory} May 2014) of the murder trial in the Melbourne Supreme Court ^{Mr Gregory} ~~Mr Gregory~~ ^{Mr Gregory} attested in re-examination, that he had a visit from a lawyer, Ms. Gobo while in prison who told him "things" in relation to the Chartes-Abbott matter (Operation Briars). (See transcript of trial hearing ~~Mr Gregory~~ ^{Mr Gregory}).

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19. Mr Greoor during cross-examination about the length of time it took for the police and OPI investigators to take a statement from him concerning the murder of Chartres-Abbott, gave evidence that this was because there was another investigation going on in relation to media leaks by Linnell, Ashby and Mullet and it was impossible to make any statement or speak to her [Gobbo]. [Transcript of the proceeding *The Queen v Goussis & Ors*, Day [REDACTED] May 2014 at PII [REDACTED]]

20. Mr. Ashby, 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.

21. Following the release of the unsigned statement of Nicole Gobbo (Lawyer X) and jurated 21 May 2009 ("**RC 0289 Statement of Gobbo**") and the Human Source Management Running Sheet ("**RC 0146 ICR Summary**") by the Royal Commission, which I have read, I learned of Gobbo's further involvement:

- a) RC 0289 Statement of Gobbo and RC 0146 ICR Summary indicate Gobbo's involvement with Waters prior to and during the OPI hearings in 2007 and indicate that Gobbo was passing on information from Waters to VicPol relating to Operation Briars, Operation Diana and the OPI hearings.
- b) RC 0146 ICR Summary indicates that Gobbo was reporting back to VicPol every time she had meetings with Dave Waters. In RC 289 Statement of Gobbo Ms. Gobbo refers to a conversation with former Victoria Police member, Mr. David Waters, in her chambers on 10 November 2007. Ms. Gobbo specifically 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." The statement has been tendered to the Royal Commission previously.

22. Operation Diana. Please see previous answer paragraphs 15 – 21 inclusive.

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23. Any OPI investigations related to these operations. Please refer to my previous answer, paragraphs 15 – 22 inclusive. Furthermore, Operation Briars was a joint OPI and Victoria Police investigation, whereby a Board of Management directed operations and, as aforementioned, consisted of Mr. Overland (as Chair) and members Mr. Ashton (from the OPI) and Mr. Cornelius from Victoria Police.

24. Each member of the Board of Management for Operation Briars was fundamental to supporting the operations and investigative 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.

25. Because of the lack of publically available information, I don't know the full extent of :

- (a) Ms Gobbo's involvement in events leading to the commencement of Operation Briars and Operation Diana investigations and her involvement with their targets;
- (b) Ms Gobbo's involvement in Operation Briars and Operation Diana and their targets;
- (c) the full extent of non-disclosure of relevant information and evidence in the possession of VicPOL and OPI to me and my legal team for the OPI hearing, my committal hearing and for my civil proceedings;
- (d) the extent to which information provided by Ms Gobbo to VicPol and/or OPI was used to obtain surveillance/intercept warrants. My legal team sought to obtain from VicPOL and OPI copies of the affidavits that were used to obtain the warrants. VicPOL and OPI refused to provide the affidavits claiming public interest immunity to protect informants. I and my legal team were of the view that the

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warrants were improperly obtained and I had not been involved in any criminal activities and there was no basis for obtaining such warrants.

26. There are a several issues that have directly impacted upon me concerning the conduct of Operation Briars and Operation Diana and Ms Gobbo's involvement in Operation Briars and Operations Diana and their targets. The first issue has been the lack of disclosure of relevant information and evidence (including Ms Gobbo's involvement in Operation Briars and Operation Diana and their targets) that would have benefited my defence to allegations made against me, for the criminal charges preferred against me and finally for my civil action against former Chief Commissioner Christine Nixon (and others) for the tort of malicious prosecution and other torts.

27. I set out below examples of non-disclosure of relevant information and evidence by VicPol and OPI that I have recently become aware of, which non-disclosure I believe has adversely impacted and prejudiced me during the OPI hearings, the committal hearing and the civil proceedings:

- a) VicPol and the OPI were in possession of the information and evidence including RC 0289 Statement of Gobbo and RC 0146 ICR Summary prior to my public examination at the OPI public hearing commencing 12 November 2007, which was relevant to the matters that I was publically examined on and which were not disclosed to me.
- b) The information and evidence including RC 0289 Statement of Gobbo and RC 0146 ICR Summary that was in the possession of VicPol and the OPI including other material concerning Gobbo's involvement in Operation Briars and Operation Diana (including targets of these investigations) should have been provided to me prior to the OPI hearings and the hearings should have been suspended so that I and my legal team could undertake investigations and test the undisclosed information/evidence.

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- c) I believe that if the material had been included in the brief of evidence that was considered by the OPP, I would never have been charged in the first place.

28. The statement of Gobbo (RC 0289) and Human Source Running Sheet (RC 0146 ICR Summary) and the relevant material including Gobbo's involvement in Operation Briars and Operation Diana should have been disclosed by VicPol for my Committal Hearing. I believe that the failure of the OPI and VicPol to disclose the information and evidence referred to above prior to and at my committal hearing, resulted in substantial prejudice to my case and unfair hearing processes, resulting in a miscarriage of justice.
29. I also believe the statement of Gobbo (RC 0289) and Human Source Running Sheet (RC 0146 ICR Summary) and other material concerning Gobbo's involvement in Operation Briars and Operation Diana and targets of the investigations should have been disclosed before the commencement of my civil proceedings against Christine Nixon and Ors before the Supreme Court of Melbourne.
30. I believe that the OPI and VicPol, in failing to disclose all relevant material at my OPI Hearing, Committal and Civil Litigation, contaminated my cases in all three jurisdictions.
31. The OPI and Victoria Police acted jointly to release selective evidence, particularly of telephone intercept material, while excluding other intercept material that provided exculpatory evidence. In doing so, particularly at the public hearings 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 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 a 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.

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32. Below I set out further examples of non-disclosure of relevant information and evidence to me and my legal team by VicPOL and OPI, which I believe has adversely impacted and prejudiced me during the OPI hearings, the committal hearings and the civil proceedings hearings:

- (a) The non-disclosure prior to or during the OPI hearings of the memorandum of information received from journalist Mr. Nick McKenzie 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 wasn't disclosed until I was served with the Brief of Evidence in my committal proceedings. The Memorandum logged a range of conversations between 14 April 2007 and 19 February 2008.

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 and evidence that would have aided my defence to criminal charges and protected my reputation.

- (b) Non-disclosure of this memorandum not only harmed the legal defences of me and others. I seriously question the true objectives of Operation Diana and also questioned its linkages with Operation Briars. I believe that Operations Diana and the OPI hearings were vehicles that were used by VicPOL and OPI to publically vilify me and to damage my reputation and to force me to resign from Victoria Police and as Secretary of The Police Association, rather than being proper investigations into abuse of the criminal justice system.

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- (c) Non-disclosure of relevant information and evidence, 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 intercept material for their own purposes and to the benefit of Mr. Overland, but failed to disclose 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.
- (d) Non-disclosure of evidence and information that was damaging to VicPOL and OPI relating to the Operation Briars and Operation Diana, was the approach to evidence collection and the propensity to mould evidence, exists in the official OPI Case Log of Operation Diana. The case log, a voluminous document, 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, an OPI investigator. Bernshaw kept extensive contemporaneous notes and was responsible for making entries into the OPI case log for Operation Diana.
- (e) Non-disclosure by VicPOL and OPI of Mr. Ashton, Ms Nixon's, Mr Overland's and Mr Cornelius' notes and diaries of meetings and telephone and other discussions concerning Operation Briars and Operation Diana and Ms Gabbo's involvement including meetings with Ms Gabbo.
- (f) Non- disclosure by VicPOL and OPI of the informal investigations (including relevant file and diary notes) which they had commenced before the date that Mr. Brouwer signed the Notice of Motion on the 30 May 2007 for the Operation Diana investigations. I only became aware of these informal investigations as a result of Mr Ashton conceding in cross-examination of the existence of these informal investigations during Mr Ashby's committal

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hearing. From the information publically available I don't know of the extent of Ms Gobbo's involvement in the informal investigations.

33. I believe that the matters set out above and other selective authoring of the official OPI public report into Operation Diana, that deeply involved and also reported on Operation Briars, 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, 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.

34. The effect of the OPI hearings and the accompanying media reporting, that was facilitated and driven by the OPI, and the subsequent legal processes, significantly undermined and harmed my personal reputation and public reputation.

35. 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.

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

36. I was never represented by Ms. Gobbo.

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.

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

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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.

38. 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

39. 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)

40. Ms. Gobbo came to my committal proceedings on some occasions. At that time, I did not know her, but I have since recognised her from media reporting of her identity.

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

41. 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: -

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- a) 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 on the grounds of public interest immunity and protection of police informations. From information I now have I believe that one of those informants was Ms. Gobbo.
- b) 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 investigation authorities 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.
- c) 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
- d) I will now refer to the leadership and structure in the industrial relations context during Operations Briars and Dianna. Prior to and during this period there was a significant number of industrial relations disputes between The Police Association and Victoria Police, These disputes included, but were not limited to, the proposal of Chief Commissioner Nixon, to amend the then Police Regulation Act that would have delivered her unfettered powers. Further was the attempted introduction, by the then Assistant Commissioner, Overland, of the restructure of the Crime Department known as "The Major Crime Management Model." Also, in dispute was the

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renegotiation of the Enterprise Bargaining Agreement. To my surprise Chief Commissioner Nixon appointed the 2007 Assistant Commissioner for Traffic, Noel Ashby, to the role of negotiating with me. Interestingly this appointment was made within close proximity of the O.P.I. Own Motion Investigation called "Diana" on the 30 May 2007.

Conclusion

42. In conclusion, the repeated practice of non-disclosure by the OPI and Victoria Police of relevant significant information (including RC 0289 Statement of Gobbo and RC 01461CR Summary the Human Sources Running Sheet), to which I have referred earlier, and particularly Gobbo's involvement in Operation Briars and Operation Diana and events that lead to Operation Briars and Operation Diana , led directly to a miscarriage of justice that was demonstrated through OPI private and public hearings, committal proceedings, pre-trial preparation as was required and also of my civil actions against Ms. Nixon (and others), in the Melbourne Supreme Court.

43. The practices of non-disclosure were grossly unfair, were 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.

Paul Mullett

26 August 2019.