

Royal Commission
into the Management of Police Informants

SUPPLEMENTARY STATEMENT OF STUART DAVID BATESON

1. My full name is Stuart David Bateson.
2. In early May 2019, I produced a statement to the Royal Commission which responded to a set of questions asked by the Commission.
3. For the assistance of the Commission, I now produce this supplementary statement which:
(a) contains further detail in relation to some of the events described in my initial statement; and (b) addresses topics that I understand the Commission may wish to consider but which were not the subject of the questions asked of me.

- ██████████
4. At paragraph 44 of my first statement, I refer to a meeting on 25 March 2004 with Geoff Horgan SC and others about ██████████. My diary records that the other people at the meeting were Vaille Anscombe of the OPP, Boris Buick, Gavan Ryan and Andy Allen. To the best of my recollection, the purpose of that meeting was to inform the OPP that ██████████ barrister, Ms Gobbo, had indicated a few days earlier on ██████████ March 2004, that ██████████ was contemplating a plea to the charge of murdering ██████████ (murder charge) and co-operation in return for a reduced sentence. ██████████ had indicated a willingness to co-operate with police from the day of his arrest. He stated in his evidence during the committal hearing that he had telephoned the Purana Taskforce from the ██████████ to let us know that he was willing to assist (see transcript of ██████████ 2005, ██████████).
 5. As my first statement states at paragraph 48, there was a further meeting about ██████████ involving Mr Horgan SC and others on 17 May 2004.
 6. At paragraph 50 of my first statement, I refer to Ms Gobbo then appearing on behalf of ██████████ a month later on ██████████ 2004 in relation to ██████████ charges in the ██████████ County Court. Mr Horgan SC appeared for the Crown. My statement records my understanding that by the time of this hearing, there had been discussions between Mr



Horgan SC and Ms Gobbo about a plea by [REDACTED] to the [REDACTED] murder charge. I understood that there had been discussions because [REDACTED] plea in relation to the [REDACTED] charges was brought on for hearing and heard in [REDACTED] so that he could then be [REDACTED] to an [REDACTED] for his protection in preparation for him making statements as part of his plea to the [REDACTED] murder charge.

7. My first statement then sets out the various discussions that I subsequently had with Mr Horgan SC about [REDACTED] plea. It also explains that [REDACTED] statements were provided to the OPP on 14 July 2004. See my first statement at paragraphs 53 to 58.
8. The statements of [REDACTED] given to the OPP implicated [REDACTED], [REDACTED] and [REDACTED] in the [REDACTED] murder and the murders of [REDACTED] and [REDACTED] ([REDACTED] and [REDACTED] murder charges). [REDACTED] was the driver in relation to those murders. He alleged that [REDACTED] had provided the guns to him and [REDACTED] which were used in the executions. [REDACTED] alleged that [REDACTED] had [REDACTED] the executions.
9. At paragraph 66 of my first statement, I explain that by no later than December 2004, Ms Gobbo was appearing for [REDACTED]. By this time, [REDACTED] had been charged with the [REDACTED] and [REDACTED] murders. [REDACTED] and [REDACTED] were his co-accused. [REDACTED] was to be a Crown witness against the [REDACTED] co-accused.
10. I believe that I was referring in paragraph 66 to the following two appearances by Ms Gobbo in December 2004:

- (a) On [REDACTED] December 2004, Ms Gobbo appeared for [REDACTED] at a coercive confidential examination. I attended the examination. Mr Horgan SC was counsel assisting the Examiner.

I now understand that Ms Gobbo also appeared for [REDACTED] at an earlier examination on [REDACTED] September 2004. Mr Horgan SC was counsel assisting the Examiner. See exhibit RC.333 at [17]. I do not recall being present at that examination.

- (b) On [REDACTED] December 2004, Ms Gobbo also appeared for [REDACTED] in relation to the [REDACTED] and [REDACTED] murder charges. The hearing was before Justice Gillard in the Supreme Court of Victoria. It appears from my diary note that it was a mention



hearing and that subpoenas were discussed. Mr [REDACTED] QC appeared for [REDACTED] co-accused, [REDACTED] and Mr [REDACTED] appeared for the other co-accused, [REDACTED]. I do not have a diary note of who appeared for the Crown. I believe that Mr Horgan SC and/or Andrew Tinney (now Justice Tinney) appeared because they had carriage of the prosecution.

11. I understand that emails from my inbox for a specified period have recently been recovered (**Recovered Emails**). It is apparent from one of the Recovered Emails that on 1 March 2005, Ms Gobbo appeared with Mr [REDACTED] QC for [REDACTED] on the first day of the committal hearing in the prosecution of [REDACTED] and [REDACTED] for the [REDACTED] and [REDACTED] murders. The committal was before Magistrate Ian Gray. Mr Horgan SC and Mr Tinney appeared for the Crown. Mr [REDACTED] QC and Ms [REDACTED] appeared for [REDACTED]. Mr [REDACTED] (now QC) appeared for [REDACTED]. Mr Gavan Silbert (now QC) appeared for the Chief Commissioner of Victoria Police on the return of subpoenas that had been issued.
12. The transcript of the hearing that day records that [REDACTED] started giving his evidence against [REDACTED] and [REDACTED] and [REDACTED].
13. In relation to the subpoena issue, the transcript records that the subpoena sought police diary notes. Mr Silbert informed Magistrate Gray that I was compiling a bundle of the relevant diary notes in un-redacted form and that they would be provided to Magistrate Gray together with the redacted versions so that his Honour could rule on the proposed redactions that had been made on relevance and Public Interest Immunity (PII) grounds. Mr Silbert also informed Magistrate Gray that he had the original diaries in the hearing and they could be handed up. The subpoena argument was adjourned to the following day. See T40.24-52.2.
14. I have obtained the transcript of the hearing the following day before Magistrate Gray. I can see that the Court was closed for a period so that Magistrate Gray could hear and determine the subpoena matter (see T84.9-14, T88.4-89.1 and T103.14-106.25). The transcript that I have located does not include that part of the hearing held in closed court. I gave evidence in the closed hearing about the redactions. I recall the Magistrate working through a folder of the diary notes (which he had in un-redacted and redacted form) during that closed hearing. I recall the Magistrate ruling on redactions as the hearing proceeded.



15. The transcript of the hearing on 9 March 2005 confirms my memory of what occurred. The transcript records Mr [REDACTED] QC, on behalf of [REDACTED], cross examining me about my redacted diary notes about [REDACTED] (see T844.13-T845.29), as follows:

Mr [REDACTED] QC: Did he [REDACTED] get an estimate from Mr Horgan SC?

Me: No. Well, certainly not through me. I mean if...there was any communications between the Director or the Director's office it was done through his lawyer.

Mr [REDACTED] QC: Through his lawyer?

Me: Through [h]is lawyer.

Mr [REDACTED] QC: What his lawyer would from time to time be in contact with Mr Horgan or those instructing Mr Horgan, or perhaps the Director of Public Prosecutions himself?

Me: That's my understanding, yes.

Mr [REDACTED] QC: That's 26 May, the next date?

Me: The [REDACTED] June, which is at the [REDACTED]...Court.

Mr [REDACTED] QC: The note I've got for you that day is "spoke to [REDACTED] in cells with PS." Who is that?

Me: Phil Swindells.

Mr [REDACTED] QC: Sorry?

Me: Mr Swindells.

Mr [REDACTED] QC: I beg your pardon. "Still willing to proceed with statements, explained procedures." Now this was the day he was going to go - this was [REDACTED]?

Me: Yes

Mr [REDACTED] QC: Then [REDACTED] Court plea hearing, Mr Horgan prosecuting, something else is crossed out. Pardon my being - why cross out another member of the legal fraternity there?

Me: Well. Well I was just not - it's just an issue that I've raised with his Honour.



Mr [REDACTED] QC: Is it?

Me Yes.

Mr [REDACTED] QC: It is a matter of public record isn't it?

Me Well it may well be, but it was

Mr [REDACTED] QC: The name of the lawyer who appeared for him, [REDACTED], is crossed out, that's basically what I inferred from that. You've got the name of the prosecutor, the name of the judge but the middle line was blacked out?

Me Yes.

Mr [REDACTED] QC: Your Honour I can't for the life of me see how that could be.

His Honour: I take it Mr [REDACTED] I'll have to go back through it, but the evidence for this matter is dealt with in a closed session of course and some matters were... let back in and others were left out.

Mr [REDACTED] QC: I understand that.

His Honour: That's been left out. To assist you I can't recall the precise reason why the name was left out, but it was.

Mr [REDACTED] QC: It's not of great moment.

His Honour: But at this stage certainly Mr Bateson can't answer that question because I've ruled on it in that session. I'm not saying no that on further reflection on his part or Mr Horgan's part or on application on my part that couldn't be changed, but that's the way it stands at the moment.

Mr [REDACTED] QC: Your Honour, I must say it would certainly seem I don't know and don't care, but it seemed odd to me that it was crossed out.

His Honour: It may be innocuous.

16. The lawyer who had appeared for [REDACTED], whose name was redacted, was obviously Ms Gobbo. Mr Horgan SC must have known that because he had appeared for the Crown at the hearing that was the subject of my diary note. Mr Horgan SC had also dealt with Ms Gobbo in relation to [REDACTED] plea and had received his statements which implicated [REDACTED]. Magistrate Gray also knew that Ms Gobbo had previously acted for [REDACTED].

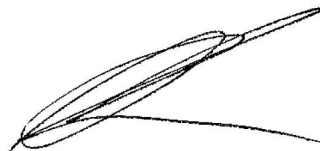


in relation to his burglary plea and the statement making process because he had read and ruled on my notes which recorded those matters.

17. I cannot recall Mr Horgan SC or Magistrate Gray raising any concern about Mr Gobbo having a conflict of interest in appearing at the committal hearing for [REDACTED] when she had previously acted for [REDACTED]. While I can see from the transcript that Ms Gobbo appeared with Mr [REDACTED] QC for [REDACTED] on the first day of the committal hearing, I do not have any recollection of her appearing. I do not know whether she appeared after the first day of the hearing. It is not apparent from the transcripts. If she did not appear beyond the first day, it may be that Mr Horgan SC had raised a conflict with her or she had decided for herself to return her brief or there may have been some other entirely unrelated reason for her not appearing. I do not know. However, I note that at the Conflict Hearing (referred to below), Ms Gobbo informed Justice King that she did not appear at this contested committal hearing because she was conflicted out of acting for [REDACTED] because she had acted for [REDACTED] (see below).
18. It is also apparent from one of the Recovered Emails that on 30 June 2005, Ms Gobbo appeared for [REDACTED] (instructed by Jim Valos) at a mention hearing before Justice King. It was one mention hearing in relation to different prosecutions, including those in relation to the [REDACTED] murder and the [REDACTED] and [REDACTED] murders. The defendants were Carl Williams and [REDACTED], [REDACTED] and [REDACTED] and [REDACTED]. Mr Horgan SC and Mr Tinney appeared for the Crown in all matters. Mr Heliotis QC and Sean Grant appeared for Mr Williams and his father. Mr [REDACTED] had previously appeared for Mr Williams' co-accused, [REDACTED] (see above). At this mention hearing, Mr [REDACTED] appeared on behalf of [REDACTED]. He informed her Honour that his client had indicated an intention to plead guilty to the [REDACTED] murder (T6.24-25). There was then further discussion during which Mr Horgan SC and Mr [REDACTED] both indicated that it was unlikely that [REDACTED] would, after pleading guilty, become a Crown witness (T15.8-21). That is consistent with my memory of being told by [REDACTED] that Carl Williams wanted him to plead guilty so that he was not sitting beside him in the dock during the trial. Mr Williams thought that he had better prospects of beating the charges without someone like [REDACTED] involved as a co-accused because of the matters that may be raised during the trial about [REDACTED].



19. At paragraph 72 of my first statement, I refer to a bail application by [REDACTED] on [REDACTED] September 2005 in relation to the [REDACTED] and [REDACTED] murder charges. It appears from my diary that the application was in fact heard on [REDACTED] September 2005 and the decision was handed down on [REDACTED] September 2005. The bail application was before Justice King. Mr Tinney appeared for the Crown. Ms Gobbo appeared for [REDACTED]
20. By the time of the hearings referred to above in which Ms Gobbo acted for [REDACTED], the OPP knew that she had previously acted for [REDACTED] and that he was now a witness against [REDACTED]. I do not have a diary note or any recollection of Mr Horgan SC, Mr Tinney or anyone else raising a concern about Ms Gobbo having a conflict of interest in acting for [REDACTED]
21. At paragraph 79 of my first statement, I refer to a meeting on 20 February 2006 with Mr Paul Coghlan QC (now Justice Coghlan) and others about [REDACTED]. The others at the meeting were Mr Horgan SC, Simon Overland, Gavan Ryan and Michelle Kerley. To the best of my recollection, the purpose of the meeting was to discuss with the OPP that [REDACTED] lawyers, Mr Jim Valos and Ms Gobbo, had indicated that [REDACTED] wished to plead guilty to the [REDACTED] and [REDACTED] murder charges and co-operate in return for a reduced sentence.
22. On 6 March 2006, I attended a further meeting with those same people.
23. I do not have a diary note or recollection of Mr Coghlan QC, Mr Horgan SC or anyone else at those meetings raising a concern about Ms Gobbo having a conflict of interest in acting for [REDACTED] when she had previously acted for [REDACTED]
24. On 21 April 2006, Justice King listed the prosecution of Carl Williams for an urgent mention hearing (**Conflict Hearing**). Her Honour requested the personal attendance of Ms Gobbo and **Solicitor 2** [REDACTED]. Mr Heliotis QC appeared for **Solicitor 2** [REDACTED] and Ms Gobbo appeared. Mr Horgan SC and Mr Tinney appeared for the Crown. I have recently read the transcript.
25. The transcript records that Justice King had become aware of a letter that **Solicitor 2** [REDACTED] had sent to prison seeking to have a conference with her client, Carl Williams, about his murder trial starting in July 2006. The letter also stated that Ms Gobbo was acting for his



██████████ Solicitor 2 ██████████ letter requested a joint professional visit with Mr Williams and ██████████ by Solicitor 2 and Ms Gobbo.

26. The transcript records that Justice King considered that by acting for Carl Williams, Solicitor 2 had breached her undertaking to the Court that she would not have any involvement in Mr Williams' proceeding due to a conflict of interest. Her Honour considered that Solicitor 2 had a conflict because she had acted for ██████████ who was now ██████████ in the prosecution of Mr Williams. I note that Solicitor 2 had appeared with Mr Heliotis QC for Mr Williams previously at the committal hearing (see above). She may have also been the solicitor on the record for ██████████ at that committal hearing. After ██████████ made statements against Mr Williams, Solicitor 2 had wanted to continue to act for Mr Williams and ██████████ had objected. She undertook to Justice King that she would not be involved in Mr Williams' proceeding. See transcript of mention hearing on 30 March 2006.
27. The transcript of the Conflict Hearing also records that Justice King considered that Ms Gobbo had a conflict of interest in acting for ██████████ because she had previously acted for ██████████ who was to give evidence against ██████████ at his trial. Her Honour asked Ms Gobbo if she was counsel for ██████████. Ms Gobbo said that she was not and she accepted that she could not appear at the trial. The following exchange then took place:
- Her Honour: You are not counsel.
- Ms Gobbo: No. Your Honour, I have continued to have a role in relation to ██████████ and I have visited him, as everyone here is probably well aware, with Mr Valos and one of the reasons - I'll leave aside the reasons.
- Her Honour: I read the plea. I've seen the plea in respect of ██████████ - sorry - it was ██████████ was it - no it's someone else. Are you involved for ██████████ in some other way?
- Ms Gobbo: Yes. Not in relation to this trial, Your Honour.
- ...
- Her Honour: You certainly shouldn't be having a joint conference.
- Ms Gobbo: I think Your Honour raised on a previous occasion or there was some -



someone raised the question of - I think my name appeared on the transcript from the committal or there was some suggestion I was at the committal. I thought that Your Honour had raised it previously, but for the same reason I can't be in the trial because I've acted for one of the witnesses.

Her Honour: You were certainly not intending to have a joint conference with Mr Williams and [REDACTED] and **Solicitor 2** in relation to the trial.

Ms Gobbo: No, **not in relation to the trial**, Your Honour. (emphasis added)

28. It seems from the transcript that Ms Gobbo considered that she was only conflicted out of acting for [REDACTED] in his trial because [REDACTED] would be a Crown witness and she had acted for [REDACTED]. It appears from the transcript, and from the subsequent events referred to below, that she did not consider herself conflicted out of advising and acting for [REDACTED] in relation to a plea.
29. Based on a review of my diary, I do not believe that I was present during the Conflict Hearing. However, there is an entry in my diary which seems to record that I was directed by someone (possibly Jim O'Brien or Gavan Ryan) to make enquiries about the hearing. It appears from my diary that I contacted Ms Gobbo to obtain some details about the hearing. I have no recollection of these discussions now.
30. I have been shown ICR28 which records information provided by Ms Gobbo to the SDU about the Conflict Hearing. The ICR records her stating that immediately after the Conflict Hearing, Mr Horgan SC asked Mr Gobbo when [REDACTED] was going to plea.
31. It is also important to note that Mr Heliotis QC explained to Justice King at the Conflict Hearing that his instructions from **Solicitor 2** were that she had sought to arrange a meeting between [REDACTED] and [REDACTED] because Mr Horgan SC had disclosed that [REDACTED] was [REDACTED] with [REDACTED]. The purpose of the meeting was to calm tensions between them. This is important because it reveals [REDACTED] state of mind at this time, being that he feared that [REDACTED] was about to [REDACTED] the [REDACTED] and [REDACTED] were already witnesses against [REDACTED] by this time. If [REDACTED] were to also [REDACTED] then he would be [REDACTED] going



- ██████████ It was not long later that that ██████████ entered a guilty plea and started ██████████
██████████
32. At paragraph 91 of my first statement, I refer to a meeting that I attended with the OPP about two months after the Conflict Hearing. The meeting was on ██████████ June 2006 with Mr Horgan SC and Mr Tinney. As outlined in my statement, we discussed what assistance ██████████ may be able to provide as part of a plea. The meeting was left on the basis that I would call ██████████ barrister, Ms Gobbo, and pass on the position and invite her to contact Mr Horgan SC if she wished to discuss a plea. I do not have a note in my diary or any recollection of Mr Horgan SC or Mr Tinney, who had both appeared at the Conflict Hearing, raising any concern about Ms Gobbo being conflicted out of acting for ██████████ in relation to a plea.
33. My first statement records that only ██████████ later, on ██████████ June 2006, ██████████ entered his guilty plea to the ██████████ and ██████████ murder charges. I have obtained the transcript of the hearing. The hearing was before Justice Eames. Mr Horgan SC and Mr Tinney appeared for the Crown. Ms Gobbo appeared for ██████████
34. Given the matters discussed at my meeting with Mr Horgan SC and Mr Tinney on ██████████ June 2006 and the timing of the plea and the appearances, I expect that there were discussions between Mr Horgan SC, Mr Tinney and Ms Gobbo which led to ██████████ entering his guilty plea to the ██████████ and ██████████ murders on ██████████ 2006. I was probably kept informed as to what was occurring but I do not have a recollection of that now.
35. I have read the transcript of the hearing at which ██████████ entered his guilty plea. There is no reference to the Crown raising any concern about Ms Gobbo having a conflict of interest in appearing for ██████████ when she had previously acted for ██████████ Nor do I have an entry in my diary or any recollection of Mr Horgan SC, Mr Tinney or anyone else raising a concern.
36. I understand that on ██████████ and ██████████ July 2006 there were mention hearings in the prosecution of Carl Williams. They were before Justice King. At the hearing on ██████████ July 2006, Mr Horgan SC and Mr Tinney informed Justice King that ██████████ had pleaded guilty and ██████████ ██████████ and may be ██████████ At the hearing on ██████████ 2006, Mr Horgan SC and Mr Tinney informed Justice King that it was expected that ██████████



█ would be █ in relation to the █ and █ murders. In the context of a discussion about the timing of █ plea hearing, Mr Horgan SC informed Justice King that Ms Gobbo was acting for █ I have reviewed the transcript and no one raised any concern about Ms Gobbo having a conflict in acting for █ because she had acted for █ or anyone else.

37. In mid-July 2006, Mr Peter Faris QC started to represent Carl Williams in his upcoming murder trial. There was a mention hearing on 7 August 2006 before Justice King. I have obtained the transcript of that hearing. Mr Horgan SC and Mr Tinney appeared for the Crown. At the hearing, Mr Faris QC informed her Honour that Ms Gobbo intended to appear on behalf of █ at his upcoming plea hearing. He submitted that she was conflicted out of doing so because █ was to give evidence against Mr Williams and Ms Gobbo had previously acted for Mr Williams, his mother and Mr Mokbel. The following exchange then occurred:

Her Honour: Can I say I would have, when I heard Ms Gobbo was appearing I had much the same view, that I wondered how she was able to appear but I have been assured that there was no conflict, so my problem is I can't run that for counsel.

Mr Faris QC: I understand that.

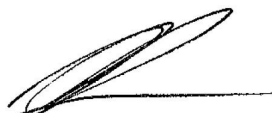
Her Honour: I had much the same reaction because she certainly couldn't have appeared in the trial and I made that very clear in mentions we had had earlier when it was announced that she was going to be Mr █ junior for █ and I indicated that would just not be possible.

38. Justice King seems to have been referring to the Conflict Hearing (outlined earlier in this statement) during which Ms Gobbo acknowledged that she could not act for █ in his trial because she had previously acted for █ who would be a Crown witness in the trial.
39. The transcript records that the conflict raised by Mr Faris QC was then left on the basis that he would again speak to Ms Gobbo about it.
40. There was then a further mention the following day, on 8 August 2007, before Justice King. Mr Horgan SC and Mr Tinney appeared for the Crown. I have obtained the transcript of



that hearing. Mr Faris QC informed her Honour that he had spoken to Ms Gobbo about her conflict in acting for [REDACTED] when she had previously acted for Carl Williams. He stated that Ms Gobbo had told him that an Ethics Committee had cleared her appearing for [REDACTED] at his plea hearing but that she would speak to her instructor, Jim Valos, to confirm who he proposed to brief to appear on the plea. Her Honour said that she had been reflecting on the issue and considered that it was an ethical matter appropriately resolved by a proper hearing and determination by the Ethics Committee.

41. As stated in paragraph 99 of my first statement, [REDACTED] plea was subsequently heard by Justice King one month later on [REDACTED] 2006. As noted in my statement, Mr [REDACTED] QC appeared on the plea.
42. I have found an email amongst the Recovered Emails that seems to explain why Ms Gobbo did not go on to appear at [REDACTED] plea. The email shows that Mr Faris QC sent a memorandum to Ms Gobbo dated 7 August 2006 which stated that irrespective of any decision by the Ethics Committee, his client would seek to restrain her from acting for [REDACTED] on his plea because she had previously acted for Mr Williams and his parents. The next day, on 8 August 2006, [REDACTED] solicitor, Mr Jim Valos, sent an email to Justice King's associate (copied to Kylie van den Akker of the OPP and Ms Gobbo) in which he:
 - (a) provided a copy of the memorandum;
 - (b) stated that despite the Ethics Committee clearing Ms Gobbo to appear for [REDACTED] he had asked Ms Gobbo to return her brief because that was in his client's best interests;
 - (c) expressed his view that Mr Williams and Mr Faris QC were making a mockery of the proceedings, inefficiently using Legal Aid funding and using tactics that were tantamount to blackmail.
43. During the proceedings involving [REDACTED] my focus was not on whether Ms Gobbo or **Solicitor 2** [REDACTED] or any other lawyer might be conflicted out of acting for one person because they are or have acted for another person. In my experience, they are not matters that police officers generally get involved in. My expectation would be that the lawyers engaged in the prosecution would raise and address any conflict issues. That is what occurred in relation to the conflict raised by Carl Williams. His senior counsel,



Mr Faris QC, raised the matter directly with the barrister concerned, Ms Gobbo, and then when not satisfied with the response, he raised it with the Court during a mention hearing. He obviously did not consider it appropriate to raise it with me and, to my knowledge, he did not raise it with any other police officer. The issue was then resolved by Ms Gobbo's instructing solicitor, Mr Valos, asking Ms Gobbo to return her brief. In the same way, if any of the prosecutors had concerns about Ms Gobbo acting for [REDACTED] because she had acted for [REDACTED] Carl Williams or the Mokbels then I expect that they would have spoken to her and, if not satisfied, taken further steps. It may be that that occurred. If it did, I was not involved and I would not have expected to be involved in those discussions with Ms Gobbo.

44. Further, it would not have entered my mind to raise the fact that Ms Gobbo was acting for [REDACTED] after having acted for [REDACTED] because those facts were already known to people involved in the proceedings as set out above.
45. I have done my best to obtain and review transcripts of the proceedings involving [REDACTED]. Given the volume of material, I have not been able to obtain and read everything.

Taking statements from witnesses

46. I have been asked about the process that I used to take statements from witnesses when I was at the Purana Taskforce.
47. When taking statements from significant witnesses I used the PEACE model. The model has five phases: (a) planning and preparation; (b) engage and explain; (c) account and clarification; (d) closure; and (e) evaluation. When I begin the account phase I simply create a new word document and type the witness' account of the incident as the witness is relaying it to me. In the early stages of this phase I try not to interrupt the witness, but if required, I prompt them using open ended questions. Often a witness will recall further detail about an aspect as I am typing which requires me to move to an earlier part of the document and add the further detail or make a change. I will then move to probing the witness account to obtain finer grain detail. I will then introduce topics which are of interest but may not have been initially raised by the witness. The process of open-ended questions and probing is repeated. If I am not able to take the full statement in one sitting,



then when I meet the witness again to continue taking the statement, I simply access the document on the computer and continue on. I have never created electronic drafts of statements. I do not believe it would be fair to the witness do so. Until we move to the closure phase the witness does not review the statement or the contents. In other words, the contents of the statement are only what I have heard and recorded. During the closure stage witnesses will often say, for example, "no that is not what I meant", "that is not what I said", "I am not sure that accurately portrays what happened" or "I forgot to mention". There have been occasions on which witnesses have still wanted to make changes when they have been given their printed statement for signing. On those occasions I would make the changes requested by the witness in the electronic document and then print it again for signing. The redundant earlier printed version would be securely destroyed.

48. When a witness asked me to arrange for their lawyer to review their statement before it was signed, I would ordinarily arrange for that lawyer to read it in hardcopy and make a note of this in my diary. Where a witness wished to make changes to their statement after having obtained legal advice, I would make a note in my diary. Once the witness was content with their statement (and after he or she had received any further legal advice), the statement would be printed for signing. It was very common for witnesses to ask for their lawyer to review their statement before signing it. It was uncommon for witnesses to make changes after legal review of their statement and, to the best of my recollection, when it did occur the changes were not material. I recall occasions on which, after legal review, the witness' statement was amended to expressly record that the statement was provided on the basis of an undertaking that the witness would not be prosecuted in relation to the matters recorded in the statement.
49. As far as I am aware, the process that I adopted to take statements was not unusual within Victoria Police.
50. When I was asked about my statement taking process, I recalled an occasion on which drafts of statements were subpoenaed by defence counsel and the topic was discussed before Justice King. Her Honour was not critical of the process or concerned or surprised that there were no drafts of statements. I have located the transcript. See transcript of mention hearing on 30 March 2006 in R v Williams at T34-35.



51. The following exchange occurred:

Mr Valos for [REDACTED] This paragraph [of an affidavit sworn by me] seems to indicate that, as far as I can see, that all statements involving or signed by [REDACTED] somehow seems to be final versions and signed on that basis. I think my friend's subpoena requested anything unsworn, anything handwritten, or any product. I don't know that this paragraph answers, in any way whether there was any lead up product to the final statements before they were signed. If there is, we'd clearly like to see that. If there isn't, we'd want to know there isn't.

Her Honour: Well, I don't know what they're going to say but let me tell [you] how I work. I just sit there and type and I change it as I go and I delete and move forward, that's how people do it who are computer literate and can type.

...

Her Honour: I've obviously moved beyond dinosaur, barely, but that's how I would do it and I just presumed that that's how they would – but I'll make enquiries.

...

Mr Lancy for CCP: ...your presumption was absolutely accurate. That's entirely the way it's produced.

52. It is not uncommon for informants and witnesses to be cross examined at length by defence counsel about the process used to take the witness' statement.

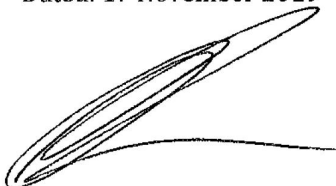
Making PII claims

53. Whilst I do not remember it clearly, I believe that I received some formal training at Detective Training School about PII. I know that PII claims are able to be made in relation to covert methodology, ongoing investigations, the identity of human sources and other matters where someone's safety needs to be protected.



54. The process that I adopted in making disclosure or responding to a subpoena was to go through my notes and, using a black marker, redact entries that were not relevant and entries that I considered to attract a claim of PII. When I was not the informant, I would give the informant my redacted and un-redacted notes. I would then generally not hear anything further from the informant unless I was required to give evidence about the redactions.
55. When I was the informant and the redactions to my diary notes were challenged (which was most, if not all, of the time during my time at Purana), the Victorian Government Solicitors Office (VGSO) was often retained to handle the matter. The VGSO received the redacted and un-redacted notes and would sometimes prepare affidavit material setting out the reasons for the redactions. On most occasions, I would just give oral evidence in a closed hearing about the redactions. The VGSO briefed counsel to appear on the applications. Counsel would have my un-redacted notes.
56. In relation to this process, see, for example, the earlier part of this statement about the committal hearing before Magistrate Gray. I also recall the same process being adopted in the trials before Justice King. Her Honour had police diary notes and witness statements which were the subject of redactions in un-redacted form. Her Honour read the un-redacted material for the purpose of determining the PII and relevance claims. I recall that there were numerous PII arguments during these proceedings. They will be recorded in the transcripts of the proceedings.

Dated: 17 November 2019

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line.

.....
Stuart David Bateson