



VICTORIA POLICE

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Mr Stephen O'Bryan
Commissioner
IBAC
459 Collins Street
Melbourne VIC 3000

Dear Mr O'Bryan

Human Source Management

I write in response to your letter dated 3 April 2014, addressed to Acting Chief Commissioner Tim Cartwright.

Disturbingly, there is growing evidence that people with an intimate knowledge of the police decisions and actions in relation to a registered Human Source are providing information to some journalists.

There has been considerable work done by Victoria Police and others in regard to both Witness "F" and the broader issues of informer source management. I undertake to ensure that you are provided full copies of each of these documents. In addition to the brief chronology attached, I have taken steps to have a complete detailed chronology of the key issues and dates constructed to give a complete overview of all of the relevant issues. That material will be made available to you prior to 4 May 2014. In summary though, the status of the current internal work is as follows.

- i. Victoria Police Review - Human Source Case Review by Mr M. (Neil) Comrie AO APM (the "Comrie Review") July 2012

It includes the Terms of Reference and 27 separate Recommendations.

I have since appointed Deputy Commissioner Cartwright to ensure implementation of all recommendations and for the completion of Operation Loricated. As you would be aware, this work is addressing the first recommendation made in the "Comrie Review". Mr Rob Sutton from your office has been provided with a copy of this report.

Operation Loricated was established to address recommendation 1 of the Human Source 3838 case review conducted by Mr Comrie. This recommendation required Victoria Police to review all of the intelligence holdings sourced from Human Source 3838 to determine what operational value they may contain.

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As part of that process, a number of information reports have been identified which may allude to the ethical performance of witness 'F' in regard to professional duties. In response to the request contained in your letter dated 3 April 2014 I have attached the terms of reference, project timeline and scope of that review.

I will be seeking an independent post implementation review of all of recommendations of the Comrie Review. This will give both me, and the broader community, a level of confidence that this critical and often problematic area of police work is being properly managed.

ii. OPI (confidential) Report – Operation Degree

I understand you also have a copy of this report as part of the hand over of the OPI to IBAC. As you may be aware, this report, dated 28 May 2012 concerned the death of Carl Williams and specifically focused on the protection and management of Williams.

iii. Victoria Police Review - A Review of Victoria Police Witness Protection Program (The Robinson Report) November 2012

The "Robinson Review" was commissioned in response to the OPI report regarding Operation Degree.

In summary, the Robinson Report Terms of Reference focused on the operation, role and function and governance of the Witness Protection Act. Included in the scope of the review was the examination of oversight joint management of custodial crown witnesses and other structural matters within Victoria Police. Many of the recommendations of the Robinson Report have been implemented including the amendment of relevant pieces of legislation which are currently before the Parliament. I will have a copy of the report provided to your office.

Safety of Witness "F"

The primary concern for Victoria Police is the safety of the Human Source known as Witness 'F' or '3838'. The media reporting in the past week has significantly heightened the risk to the life of Witness 'F'. Victoria Police has obtained interim restraining and suppression orders from the Supreme Court directed at the Herald and Weekly Times to mitigate the risk of further media reporting. An order was made on Thursday, 3 April 2014 (see Attachment 2). A further order was made on 10 April 2015 (see attachment 3).

Other media outlets were advised as to the existence of restraining orders and provided assurance to Victoria Police that they would not publish articles identifying Witness 'F'. Arrangements have also been made to provide immediate protection to Witness 'F' in the short term, although this remains problematic because of the expectations of the witness.

I have instructed my Director, Legal Services (Fin McRae) to keep your office informed of progress of the Supreme Court proceedings and any suppression orders.

In light of the confidential nature of some of the reported information, Victoria Police has a strong suspicion that either current or former members (or both) of Victoria Police have been responsible for some of the media reports. As recently as last week, there are indications that the contents of a highly confidential and damaging document were released to a media outlet. The witness has also raised

allegations of police corruption (leaks) in the last week. Professional Standards Command has commenced an investigation into the leaks.

I note that Assistant Commissioner Stephen Leane has advised your office of the commencement of an investigation into these matters.

Emerging Risks

There are a number of aspects of this investigation and peripheral issues that cause me significant concerns. I am of the view that the allegations require an investigation independent of Victoria Police. This view was formed after considering:

- i. the very real potential of a witness being murdered as a result of possible leaks from Victoria Police.
- ii. the extraordinarily high level of media and public interest in this matter, and;
- iii. the additional investigative tools that are open to IBAC, specifically, coercive hearings

The circumstances of these matters have been complex and protracted. A summary of the key events that are relevant to the situation (see attachment one) are provided to assist with context. While the chronology of events provided is not complete it gives some background and an indication of the repeated attempts to provide protection to the witness.

Deputy Commissioner Cartwright is also managing the arrangements around the safety of Witness 'F'. I have also directed other key staff to ensure that all other documents relevant to this matter are provided to your office and that you be continually apprised of developments.

As a result of the above, pursuant to Section 57 (6) of the Independent Broad-based Anti-Corruption Commission Act 2011, I make formal notification of police personnel conduct and request that:

- i. IBAC take primacy of the investigation into the media leaks that relate to Witness "F" a registered Victoria Police Human Source, and;
- ii. IBAC conduct a post implementation review of the recommendations contained in the Comrie Report.

Yours sincerely,

Ken D. Lay APM

Chief Commissioner

10/14/2014

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