

Our reference
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30 October 2020

By email: [REDACTED]
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into the Management of Police Informants
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Contact
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Dear Alex

Royal Commission into the Management of Police Informants – Special Project Unit (SPU)

The purpose of this letter is to inform the Royal Commission of an issue that has arisen in relation to the management of material subject to legal professional privilege (LPP) in the course of monitoring telephone interceptions.

On 2 July 2020, Victoria Police became aware that during the period September 2017 to July 2020 call summaries of telephone interceptions containing LPP material may have been inadvertently released to investigators. This occurred because of a technical systems issue which resulted in all call summaries of telephone interceptions being released to investigators rather than only those call summaries that did not contain LPP or corruption related material which should have been quarantined.

While the potential technical issue was identified on 2 July and rectified on 3 July, it was necessary to undertake substantial investigation and analysis to understand the nature and extent of the issue (as detailed below). The interim report from the review team was completed on 23 October 2020.

While this development may not fall within the Terms of Reference as it does not relate to human sources, during the course of the Royal Commission inquiries have been made in relation to the handling of LPP in relation to telephone interceptions and material including a statement has been produced to the Commission concerning these matters. For this reason, Victoria Police considers that it is necessary and appropriate for it to inform the Royal Commission of this development.

SPU

As you are aware, the SPU is a work unit that sits within the Covert Services Division of the Intelligence & Covert Support Command. Its functions include the initiating and monitoring of telecommunication interceptions pursuant to the *Telecommunications (Interception & Access) Act 1979* (Cth) on behalf of crime investigators.

On 2 July 2020, the SPU became aware of the possible inadvertent release of certain call summaries to investigators. In accordance with usual practice, these call summaries were quarantined by SPU monitors on the basis that they contained either LPP or corruption related material. In the case of LPP material, this is quarantined to ensure investigators do not see or use privileged information.

30 October 2020

Ms Alexandra Tighe

**Royal Commission into the Management of Police
Informants – Special Project Unit (SPU)**



A technical deficiency in a supporting program, [REDACTED] EXPORT, which was implemented in September 2017, allowed these quarantined summaries to be visible to investigators if they opted to view call summaries using the EXPORT platform, which delivers summaries [REDACTED]. It is worth noting that an alternate method of accessing summaries at that same time did not provide access to the quarantined summaries and although the quarantined summaries could have been accessed using the EXPORT platform, the relevant intercepted telecommunications themselves remained quarantined and unavailable to investigators.

The export function was deactivated on 2 July 2020, rectified, tested and reactivated on 3 July 2020. Random testing following its reactivation has confirmed that the technical issue is rectified.

The data breach was reported to the Security Information and Privacy Division on 24 July 2020. There was also a referral to Professional Standard Command on 27 July 2020.

Next steps

On 27 July 2020, a dedicated review team was established at the direction of the Assistant Commissioner, Intelligence & Covert Support Command in order to undertake further forensic enquiries and analysis of this issue. At this point the review team has found no evidence to indicate that LPP material has been used to further investigations and, more importantly, that no quarantined calls had been sought by or released to investigators. Further, the review team has also confirmed that no relevant calls have been sought to be introduced into evidence by the prosecution.

We note that the review team has identified that several call summaries quarantined as having LPP material were found not to have contained such material. Accordingly, this also potentially raises training and disclosure issues.

In order to address the situation, in addition to the review team, a Steering Committee has been established which will be chaired by the Deputy Commissioner, Specialist Operations. The committee will be made up of members from the following areas:

- (a) Information Systems and Security Command (to address the IT breach);
- (b) Professional Standards Command (to assess if there are any identified or potential conduct breaches); and
- (c) Legal Services Division (to address disclosure issues).

With regard to disclosure, senior counsel (Mr Andrew Palmer QC) has been engaged through the Victorian Government Solicitor's Office to consider and advise on any disclosure obligations in potentially affected matters. Victoria Police has also commenced contacting and informing the relevant informants and will make any disclosures required as a matter of urgency. Victoria Police is prioritising any current and past court matters and investigations that may lead to charges.

Victoria Police has also notified the IBAC and the DPP of this development.

If you have any queries, please contact Daniel Marquet.

Yours faithfully

Corrs Chambers Westgarth

Daniel Marquet

Partner