

Part E: Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege

1 Overview

- 1.1 The Royal Commission has made a number of observations regarding potential improvements to Victoria Police's current human source management framework, including proposals relating to training, the 'hybrid' model of human source management, human rights considerations and other matters.¹ While Victoria Police accepts that there is always scope to improve its human source management framework, it does not agree with the Royal Commission's observations that the current framework "does not arm its officers with the knowledge to effectively identify and manage the risks of obtaining and using confidential or privileged information" and "is not sufficient to govern human source management or to instil confidence in the Victoria community that human sources will be used in a way that is necessary, proportionate, ethical and compatible with human rights".²
- 1.2 Given that the expert witness on human source management called by the Royal Commission, Sir Jonathan Murphy, was not critical of Victoria Police's current framework for human source management, it is unclear on what basis the Royal Commission would propose the findings that it has. The evidence before the Royal Commission should, instead, lead to the conclusion that Victoria Police's processes for managing human sources with legal obligations of confidentiality or privilege are likely to be the most stringent and effective of most (if not all) comparable jurisdictions.
- 1.3 The Royal Commission has recognised that Victoria Police has taken significant steps to improve its human source management processes since Ms Gobbo's deregistration.³ Some of these reforms have been targeted towards human sources with legal obligations of confidentiality or privilege, while many of the reforms have improved human source management processes in general.⁴ Human sources with legal obligations of privilege or confidentiality or potential legal obligations of privilege or confidentiality make up a small fraction of the overall number of human sources managed by Victoria Police.⁵ While Victoria Police anticipates that the Royal Commission's recommendations will relate only to human sources with legal obligations

¹ The version of the draft report chapter regarding the current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege made available to Victoria Police is heavily redacted and appears to contain a number of missing pages.

² Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [260].

³ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [259].

⁴ See Victoria Police response to the draft final report relating to terms of reference 3 to 6, Part A [3.7] (VPL.3000.0003.0001 at .0005–.0006)

⁵ See Victoria Police response to the draft final report relating to terms of reference 3 to 6, Part B [1.3] (VPL.3000.0003.0001 at .0012–.0013)

of privilege or confidentiality, the Royal Commission should also be mindful that any such recommendations are likely to impact on the overall human source program.

- 1.4 In this context, Victoria Police considers that the Royal Commission should take into account the importance of the human source program in policing and community safety in Victoria. The Royal Commission has acknowledged submissions that “the use of human sources is becoming an increasingly important method of intelligence-gathering due to technological and other advancements such as encryption that can affect the reliability and effectiveness of other law enforcement techniques”.⁶ Victoria Police agrees with that position. There is a risk that overly onerous requirements for registering or managing human sources could result in a reduction in Victoria Police’s capability to effectively gather and utilise criminal intelligence. While Victoria Police is receptive to further reform to its human source management processes, including external oversight (as detailed further in this response),⁷ these reforms should be considered in the context of the potential chilling effect to the overall human source program. There may also be significant costs involved in implementing further reforms to the human source management framework, particularly in relation to transitioning from the current hybrid human source management model to a dedicated human source management model — the Royal Commission should be mindful of any additional resourcing required to implement its recommendations.⁸
- 1.5 Under cover of these observations, Victoria Police considers it is necessary to respond to and clarify its position in relation to the following matters raised in the Commission’s draft report:
- (a) training requirements and competency for senior members involved in oversight of human source management;
 - (b) the hybrid model of human source management;
 - (c) human rights considerations; and
 - (d) several other matters.

2 Human source management training requirements

- 2.1 The Royal Commission has observed that, under the VPM Human Sources Policy (2020), there are no or minimal mandatory human source management training requirements for members responsible for the oversight of human source registrations and human source management.⁹ According to the Royal Commission, “[t]his can mean the handler is the highest trained officer in the handling team”.¹⁰ The Royal Commission has also observed that “some officers with supervisory functions” “regard handlers and controllers as the ‘experts’ who do not require close scrutiny”.¹¹ These

⁶ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [261].

⁷ Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [326] (VPL.0014.0113.0019 at .0094).

⁸ See, eg, Exhibit RC1529 – Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [289]–[301] (VPL.0014.0113.0019 at .0084–.0085).

⁹ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [74], [209].

¹⁰ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [73].

¹¹ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [365].

observations misunderstand the approach to training of Victoria Police at various levels, for the following three reasons.

- 2.2 Firstly, as noted by Deputy Commissioner Steendam and then Assistant Commissioner Paterson, while the VPM Human Sources Policy (2020) sets out the *minimum* training requirements for some of the members involved in human source management, as a matter of practice it is common for members to have received training higher than the bare minimum required.¹² Victoria Police has provided detailed information about the number of members that have undertaken Victoria Police's human source management training.¹³ This information demonstrates that, notwithstanding the costs involved in running human source management training, a large proportion of members have completed advanced training.
- 2.3 Secondly, the VPM Human Sources Policy (2020) sets out the minimum training requirements for handlers and controllers in detail, because these are typically the most junior members involved in human source management. On the other hand, the role of OICs and LSRs in human source management is focused primarily on risk assessment and governance. Members in these roles receive training relevant to the skills they need to apply, as they progress through the ranks. Where training gaps are identified,¹⁴ training is offered. Furthermore, *all members* of the HSMU have received the same training undertaken by handlers and controllers, in addition to other courses in risk management.¹⁵ This is a requirement of being in the HSMU. It is not Victoria Police's practice for policy documentation to outline all minimum training requirements that may apply to a position — training and competency requirements may also be set out in other internal documentation such as position descriptions.
- 2.4 The CSR has been heavily involved in the design of all components of human source training within Victoria Police and has closely observed the delivery of training within Victoria Police and within other agencies. The CSR has also undertaken advanced human source risk training and other specialised training overseas.¹⁶ As noted by DC Steendam, a member would not meet the prerequisites to even be considered for the role or acting role of CSR, or a role in the HSMU, if they did not have the skills, training background and capability to perform those roles.¹⁷
- 2.5 Thirdly, the type of skills required for handlers and controllers is markedly different to the skills required to be exercised by more senior management involved in oversight of human sources. The human source management training content focuses on the tradecraft of working with a human source face to face. The OIC, LSR, members of the HSMU and the CSR will not meet with human sources and their role does not require them to have been trained in the tradecraft of dealing with human sources. Rather, the role of senior members involved in human source management typically relates to risk mitigation, appropriate governance and supervision. While human source management training includes risk mitigation strategies for members to employ in meeting with human sources, this is a different consideration to the more systemic level of risk

¹² T14902.2 – T14902.5 (DC Steendam); Confidential statement of Assistant Commissioner Neil Paterson dated 12 December 2019, [26]–[28] (VPL.0014.0005.0072 at .0075); Statement of Assistant Commissioner Neil Paterson dated 5 March 2020, [20] (VPL.0014.0005.0109 at .0111).

¹³ See VPL.0098.0043.0001 to VPL.0098.0043.0027.

¹⁴ For example, Victoria Police has at times in the past identified gaps in members' training in relation to the Interpose human source module.

¹⁵ T14902.9 – T14902.27 (DC Steendam).

¹⁶ Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [247]–[248] (VPL.0014.0113.0019 at .0072).

¹⁷ T14902.9 – T14902.27 (DC Steendam).

assessment conducted by more senior members. Victoria Police is also currently reviewing training for LSRs focussing on human rights, risk and governance as it applies to human source management. As noted by DC Steendam, in order to progress through the ranks of Victoria Police, senior members necessarily receive training relating to risk assessment, ethical leadership and human rights requirements.¹⁸ The ability of members to effectively perform these oversight functions is a determinative feature of whether and how members progress through the ranks.

- 2.6 The need for training to be nuanced to equip members at different levels to carry out their specific role was acknowledged by Sir Jonathan Murphy.¹⁹ Accordingly, while in the UK it is a requirement for those directly responsible for handling human sources to complete a “core skills training program” and “enhanced skills training program”, authorising officers undertake a different training program “designed for those responsible for considering applications for authorisation of sources and overseeing law enforcement agency source systems”.²⁰ Victoria Police understands that it is not a requirement in the UK for authorising officers to have completed the same training as handlers, or to have been a handler or controller, prior to becoming an authorised officer.
- 2.7 In considering recommending reforms to Victoria Police’s human source training, the Royal Commission should also have regard to the process by which training is reformed and delivered within Victoria Police. For example, as a Registered Training Organisation, Victoria Police must comply with certain external requirements prior to implementing major reforms to its training programmes.²¹ This often requires provision for a ‘training needs analysis’, in order to identify any substantive gaps or areas of potential enhancement to the training currently delivered to members.²² Any recommendations relating to training would have to be implemented in a manner that is consistent with Victoria Police’s other training requirements.

3 The hybrid model

- 3.1 The Royal Commission has observed that, as a result of Victoria Police’s ‘hybrid’ model of human source management (involving a combination of dedicated and non-dedicated units and functions), there are some challenges to senior members consistently and effectively performing intrusive supervision of more junior members.²³ The Royal Commission has also summarised feedback from members in focus groups about Victoria Police’s hybrid human source management operation model.²⁴

¹⁸ T14904.19 – T14904.45 (DC Steendam).

¹⁹ T14985.1 – T14985.22 (Sir Jonathan Murphy).

²⁰ Exhibit RC1540 - Statement of Sir Jonathan Murphy dated 28 April 2020, [63] (COM.0110.0001.0001_0009).

²¹ For further information, see statement of Assistant Commissioner Kevin Casey dated 15 August 2020 (VPL.0014.0134.0001).

²² For example, Victoria Police People and Development Command is currently conducting a training needs analysis in relation to disclosure training: see Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [278] (VPL.0014.0113.0019 at .0078).

²³ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [202].

²⁴ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [248].

- 3.2 Deputy Commissioner Steendam outlined Victoria Police’s perspective of the benefits and limitations of the hybrid model — Victoria Police’s perspective is consistent with the feedback from members.²⁵
- 3.3 The Royal Commission and members have commented on the chain of approval requirements for human source registrations under the hybrid model, particularly in relation to the role of OICs and LSRs in reviewing and approving registration applications.²⁶ These layers could be simplified in a more centralised human source management model. While Victoria Police recognises that the hybrid model results in some additional layers to the approval process, these layers are currently required in order for LSRs (who are typically divisional Superintendents) to be sufficiently appraised of operations at their local level for them to conduct effective supervision.
- 3.4 Victoria Police Executive Command has already given in principle support to a number of measures to guide a different structure and approach to the hybrid model.²⁷ These measures are designed to increase centralisation and encourage consistency of human source management, training and supervision across Victoria, and will likely address many of the Royal Commission’s concerns. The caveat is that moving towards an increasingly centralised human source model must be adequately resourced in order to be effective. In considering the benefits of moving towards a more centralised human source management operational model, the Royal Commission should also have regard to the potential challenges and resources required to implement a more centralised model. These challenges include:
- (a) the current lack a centralised information management system;
 - (b) the size and diversity of Victoria Police’s jurisdiction;²⁸ and
 - (c) the potential lack of suitable police resources with the required attributes, particularly in regional areas, to effectively implement and use dedicated source teams.²⁹

4 Human rights considerations

- 4.1 The Royal Commission has observed that while the VPM Human Sources Policy (2020) refers to the interaction between human rights and human sources, it does not provide practical examples of how members should properly consider human rights.³⁰
- 4.2 Victoria Police acknowledges that more could be done to provide guidance to members about how to apply human rights in practice, including considerations of proportionality

²⁵ Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [225]–[228] (VPL.0014.0113.0019 at .0067).

²⁶ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [248] and Box below [248], [288].

²⁷ Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [229] (VPL.0014.0113.0019 at .0067–.0068).

²⁸ This challenge was expressly acknowledged by Sir Jonathan Murphy: T14994.21 – T14994.27.

²⁹ See P.J. Henry and N Rajakaruna, “Interim Research Progress Report: Key Attributes of an Effective Human Source Handler”, *The Sellenger Centre for Research in Law, Justice and Social Change, Edith Cowan University* (VPL.0005.0280.0135).

³⁰ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [114]. The VPM Human Sources Policy (2020) does however contain practical examples concerning disclosure and escalation of matters to the HSEC: Exhibit RC1531 - Victoria Police Manual — Human Sources (May 2020), ss 8.2, 8.4, 8.5, 9 (VPL.0005.0285.0001 at .0028–.0035).

and necessity. This is a very complex area that affects many aspects of policing, not just human source management. Consistent with Victoria Police's focus on ethical leadership, human rights will be a priority in training and policy development moving forwards.

- 4.3 Victoria Police recognises that these improvements may take time to implement across the organisation — in the interim members have available clear escalation channels through which they can raise concerns or difficult questions touching on human rights. The Human Source Ethics Committee (**HSEC**) was established to “provide ethical governance and decision-making” and consider (among other things) “the impact on the human rights of any individuals or the community”.³¹ Matters which are likely to involve complex human rights considerations must be brought to the attention of the HSEC (i.e. in relation to the Category 1 to Category 4 human sources). Any member who encounters a “complex or difficult question” may also raise the matter with the CSR (via HSMU), who may refer the case the HSEC for guidance.³² Victoria Police has outlined in other submissions the appropriate experience and qualifications of members of the HSEC to make decisions in consideration of human rights.³³ The effect of these provisions of the VPM Human Sources Policy (2020) is that any matter which involve complex human rights considerations are brought to the attention of the appropriate senior members who have the requisite expertise to properly consider human rights.
- 4.4 Victoria Police is committed to improving the training and guidance available to members to properly equip them to acquit their human rights obligations. While it may take time to see the benefits of these improvements, in the interim Victoria Police has established clear escalation channels through which members involved in human source management must direct matters likely to involve complex or difficult human rights considerations.

5 Other matters

- 5.1 Victoria Police considers that the Royal Commission should also have regard to the following responses to matters raised in the draft report chapter.

Para	Victoria Police comment
[199]	5.2 The Royal Commission has referred to the draft <i>Human Source Strategy 2018-2022</i> document to support observations relating to members' compliance with the VPM Human Sources Policy and a lack of supervision of members. ³⁴
[200]	5.3 While Victoria Police accepts that some of the matters raised in that document relate to potential risks that exist in the current human source management framework, the document itself is a draft that was not progressed and which was not endorsed by Victoria Police Executive Command. ³⁵ The Royal Commission should be mindful of this fact in

³¹ Exhibit RC1534 - Human Source Ethics Committee Terms of Reference (12 April 2020), ss 1, 12 (VPL.0005.0285.0045 at .0047, .0049–.0050).

³² Exhibit RC1531 - Victoria Police Manual — Human Sources (May 2020), ss 8.13 (VPL.0005.0285.0001 at .0034).

³³ See Victoria Police response to the draft final report relating to terms of reference 3 to 6, Part A [4.18]–[4.22] (VPL.3000.0003.0001 at .0009–.0010)

³⁴ Exhibit RC1532 – Draft Human Source Strategy 2018-2022 (VPL.0098.0037.0001).

³⁵ T14865.20 – T14867.20 (DC Steendam).

Para Victoria Police comment

referring to this document in others sections of the draft chapter (e.g. paragraphs [190], [242] and footnote 354)

- 5.4 The Royal Commission has referred to its audit of 31 Victoria Police human source files, noting that:
- (a) none of the sources were subject to consideration of the HSEC; and
 - (b) while there were “some issues”, “[t]he audit did not identify any evidence of significant non-compliance”.

**Boxes
X.X on
pp 35
and
53**

- 5.5 Victoria Police has provided a separate response to the Royal Commission’s draft report chapter relating to the use of other human sources with legal obligations of confidentiality or privilege, including in relation to the Royal Commission’s audit of human source files.³⁶ Victoria Police considers that the results of the audit demonstrate that members have generally been able to identify the existence of potential issues relating to legal obligations of privilege or confidentiality and that, with the possible exception of one source, there was no need for the position of the proposed sources to be considered by the HSEC. This reflects the reality that most information provided by human sources is not subject to any legal obligation of confidence or privilege.

- 5.6 The Royal Commission has “surmise[d]” that Victoria Police declined to provide the Royal Commission with information relating to other police powers “because it did not exist or was not of a quality where Victoria Police was prepared to produce it”.

- 5.7 There is no basis for this observation. Indeed, it is speculative given that Victoria Police explained the reasons why it would not produce such materials and the reasons had nothing to do with their non-existence or quality.

[246]

- 5.8 Victoria Police explained, and maintains, that material relating to other covert police powers is outside the scope of the Royal Commission’s terms of reference. While term of reference 6 is framed broadly, term of reference 6 is referable to the Royal Commission’s other terms of reference which each relate to the recruitment, handling, management and use of human sources who are subject to legal obligations of confidentiality or privilege. In requesting information relating to other police powers, the Royal Commission expressly acknowledged that it did “not seek this material in relation to human source management”.³⁷ The Royal Commission did not seek to challenge this position by way of the processes for referral of such matters to the Supreme Court.

- 5.9 Notwithstanding Victoria Police’s view about the relevance of other police powers to the Royal Commission’s inquiries, Victoria Police produced a statement to the Royal Commission regarding the function of the Special

³⁶ See Victoria Police response to the draft final report relating to terms of reference 3 to 6, Part B (VPL.3000.0003.0001 at .0012–.0018)

³⁷ Letter from Solicitors Assisting the Royal Commission to Corrs Chambers Westgarth dated 17 January 2020.

Projects Unit in applying for, obtaining and executing telephone intercept warrants.³⁸ Victoria Police also offered to meet with representatives of the Royal Commission to facilitate the Royal Commission's inquiries,³⁹ however, while the Royal Commission indicated that it would "contact [Victoria Police] to arrange a meeting to discuss this matter",⁴⁰ the meeting was not arranged.

[270]

5.10 The Royal Commission has observed that it is not "convinced that a system of self-regulation of this necessary, but high-risk area of policing could ever satisfactorily manage [the] risks" relating to the use of human sources with legal obligations of confidentiality or privilege.

5.11 Victoria Police has already expressed its openness to engaging with external oversight bodies in the context of registration, use and management of human sources with legal obligations of confidentiality or privilege.⁴¹ Importantly, Victoria Police is already subject to a number of other external oversight bodies, including IBAC, the Public Interest Monitor and the Victorian Inspectorate. Victoria Police's current human source management framework has been developed to implement recommendations from the external review conducted by IBAC.⁴² In formulating any recommendations relating to increased oversight of Victoria Police, the Royal Commission should have regard to:

- (a) the existing regimes providing oversight of Victoria Police functions; and
- (b) any potential risks, including risks relating to potential disclosure of the identity of a human source.⁴³

[288]

5.12 The Royal Commission has observed that, by reference to the role of the HSEC, "accountability for decisions about sources involving legal obligations of confidentiality or privilege is dispersed across a group of people" which contrasts with human source decision-making in other jurisdictions and decision-making arrangements in some other areas of Victoria Police.

5.13 The Assistant Commissioner, Intelligence and Covert Support Command is responsible for decisions made under the VPM Human Sources Policy (2020). While the Policy sets out approval requirements for certain human source registration applications, including the decision-making by the HESC and the Deputy Commissioner, Specialist Operations, the

³⁸ Exhibit RC1538 - Statement of Inspector Ilena Pucar dated 7 May 2020 (VPL.0014.0132.0007).

³⁹ Letter from Corrs Chambers Westgarth to Solicitors Assisting the Royal Commission dated 2 March 2020.

⁴⁰ Letter from Solicitors Assisting the Royal Commission to Corrs Chambers Westgarth dated 19 March 2020.

⁴¹ Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [326]–[334] (VPL.0014.0113.0019 at .0094–.0097).

⁴² See Victoria Police response to the draft final report relating to terms of reference 3 to 6, Part A (VPL.3000.0003.0001).

⁴³ See Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [328] (VPL.0014.0113.0019 at .0096).

Para Victoria Police comment

Assistant Commissioner is ultimately responsible for implementing those decisions and ensuring compliance with the VPM Human Sources Policy (2020).

- [295],
[372]
- 5.14 The Commission has observed that, while there is a requirement for the HSEC to consider legal advice, “this occurs through the appointment of the Executive Director Legal Services to the Committee and there is not an explicit requirement or process for obtaining formal legal advice”. The Royal Commission has also observed that there is no requirement for legal advice to be obtained regarding how confidential or privileged information should be handled if it is acquired.
- 5.15 There are clearly established procedures for members to obtain legal advice in relation to human sources which are not necessarily spelled out in the VPM Human Sources Policy (2020). The HSMU, which frequently procures legal advice in order to assist members, has close relationships with the internal Legal Services Department and the VGSO. In many instances when encountering difficult issues that may require legal advice, members are first required to raise the issue with the HSMU. The HSMU can obtain advice (internally or externally) or raise the issue with the CSR and/or the HSEC. DC Steendam has noted the capacity for the Victoria Police Legal Services Division to “give frank, fearless and independent advice and appropriately meet their duty and their requirements as a legal practitioner”.⁴⁴ DC Steendam also noted that advice is regularly obtained externally including from the VGSO.⁴⁵
- 5.16 At the level of the HSEC, the Executive Director, Legal Services is the most senior lawyer employed by Victoria Police. The HSEC cannot form a quorum without the Executive Director, Legal Services (or his or her proxy, who must also be legally qualified) being present.⁴⁶ The VPM Human Sources Policy (2020) provides that the HSEC must, before considering approving a Category 1 person (or a person with a connection to the Category 1 occupations) “obtain appropriate legal advice as to the implications of registering and using that potential human source and as to any conditions or safeguards that should be put in place”.⁴⁷ The same advice would be obtained by the HSEC in circumstances where another human source provides information that is or appears to be subject to legal obligations of privilege or confidentiality.
- [377]
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[380]
- 5.17 The Royal Commission has observed that the “online nature [of aspects of human source management training] creates a risk that officer will not learn the adequate practical skills to manage a human source who poses even lower levels of risk”.

⁴⁴ T14877.39 – T14877.44 (DC Steendam).

⁴⁵ T14877.39 – T14878.22 (DC Steendam).

⁴⁶ Exhibit RC1534 - Human Source Ethics Committee Terms of Reference (12 April 2020), ss 3, 4 (VPL.0005.0285.0045 at .0047–.0048).

⁴⁷ Exhibit RC1531 - Victoria Police Manual — Human Sources (May 2020), s 8.4 (VPL.0005.0285.0001 at .0029).

5.18 Victoria Police does not agree that the “online nature” of the training creates potential risks. Victoria Police, like many other organisations, conducts online training throughout a range of areas of policing. The mere fact that some aspects of the training are conducted online is not an indicator whether or not the content of the training is sufficient. In any event, a substantial proportion of members involved in human source management have received training that is more detailed than the online basic training.⁴⁸ The Royal Commission has noted, for example, that in March 2020 members received face to face training on privilege and disclosure.⁴⁹

5.19 While Victoria Police is receptive to conducting further, more detailed face to face training, there can be costs and disruptions involved in conducting large scale training, particularly in circumstances where many members may not be particularly active in performing human source management activities.⁵⁰

5.20 The Royal Commission has observed that “there is a risk that low and medium risk human sources may not be subject to adequate monitoring”.

[393]

5.21 CaRMU audits focus on high risk sources because the consequences of non-compliance with the VPM Human Sources Policy in the context of high risk sources are likely to be magnified. Nevertheless, there are automated audit processes on Interpose, which are monitored by the HSMU, that apply to *all* human source registrations.⁵¹ Further, there is an audit report that has been built into Interpose for every LSR to access that provides a dashboard view of all current human sources in the LSR’s division and if there are any policy compliance issues relating to those human sources.

5.22 The Royal Commission has observed that the involvement of the HSMU in undertaking compliance reviews, providing advice to members, and making decisions about authorisation of certain sources “created a potential conflict”.

[393]

5.23 The core role of the HSMU is to audit and monitor human sources in order to ensure compliance with the VPM Human Sources Policy (2020). While the HSMU provides advice to members of the handling team, the advice is generally based on ensuring compliance with the VPM Human Sources Policy (2020). Further, the CSR plays a key role in overseeing the HSMU. For example, while the CSR may delegate responsibility for approval of certain human source files, the CSR retains overall authority

⁴⁸ T14902.2 – T14902.5 (DC Steendam).

⁴⁹ Draft Final Report, *Current Victoria Police processes for the use and management of human sources with legal obligations of confidentiality or privilege*, [379]. See also letter from Corrs Chambers Westgarth to Solicitors Assisting the Royal Commission dated 17 August 2020.

⁵⁰ See Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [241]–[243] (VPL.0014.0113.0019 at .0070–.0071).

⁵¹ See Exhibit RC1529 - Statement of Deputy Commissioner Wendy Steendam dated 16 April 2020, [286] (VPL.0014.0113.0019 at .0080–.0083).

on all human source governance functions.⁵² Similarly, there are a number of matters which the HSMU must bring to the attention of the CSR, and which the CSR must direct to the HSEC.⁵³

6 Conclusion

- 6.1 The version of the draft report made available to Victoria Police is heavily redacted and appears to be missing several whole pages. Given the subject of this chapter of the draft report, Victoria Police anticipates that at least some of those pages and redacted paragraphs are likely to contain commentary concerning Victoria Police's existing human source management framework or proposals for reform. To the extent that recommendations for reforms necessarily involve an implicit criticism of Victoria Police's current human source management framework, Victoria Police considers that it ought to be provided an opportunity to respond.⁵⁴
- 6.2 As is made clear by Victoria Police's responses to the unredacted parts of the Royal Commission's draft report chapter, Victoria Police will continue to develop its human source policy framework in consideration of any recommendations made by the Royal Commission, and to reflect international best practice in human source management.

Dated: 28 September 2020

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⁵² Exhibit RC1531 - Victoria Police Manual — Human Sources (May 2020), ss 2.7, 14 (VPL.0005.0285.0001 at .0008–.0009, .0039–.0040).

⁵³ See, eg, Exhibit RC1531 - Victoria Police Manual — Human Sources (May 2020), ss 2.7, 3.4, 4.2, 5, 5.3, 5.4, 7.6, 8.4, 8.5, 8.7, 8.9, 8.13, 8.14 (VPL.0005.0285.0001 at .0008–.0009, .0013, .0015, .0017–.0020, .0027–.0030, .0032, .0034).

⁵⁴ *Inquiries Act 2014* (Vic) s 36.